

# ***Fresh impetus for European Social Dialogue***

## **Strengthen Europe's social dimension with a lively social partnership**

January 2022

### ***Summary***

The European Social Dialogue between trade unions and employers plays a decisive role in helping to set the policy agenda at European level. It has proved to be a targeted and practical instrument for driving European integration forward. Unfortunately, a trend has been observed in recent years whereby social policy has increasingly become a focus for the European legislator. Yet the European Treaties explicitly specify the autonomy of social partners and a division of competences which favours the Member States in the area of social policy.

The European social partners jointly with the EU institutions must in future seek out responses as to how the European Social Dialogue can be strengthened and the role of the social partners can move more into the centre. In this regard, it is important for social partners to adopt a conscious understanding of their role derived from the European Treaties and at the same time to work in partnership with the EU institutions. A range of measures can be envisaged to this end.

### ***Background***

The central role of the European Social Dialogue in shaping working conditions as well as the autonomy of social partners is guaranteed by the European Treaties (articles 152 and 154 TFEU). In this context, European competences are deliberately ruled out in a series of areas and left in the hands of the Member States and their social partners.

Thanks to its proximity to practice on the ground and a substantive knowledge of circumstances and situations – from a cross-industry perspective and specific sectors through to individual businesses – the Social Dialogue is best suited to collating interests of employers and workers and inputting them at regulatory level. The sectoral Social Dialogue is an important pillar in this respect: whereas most sectors face similar challenges, their implications for various branches and the appropriate responses differ widely. Furthermore, the Social Dialogue creates important orientation tools for national social partners and the businesses organised within their ambit through the instrument of European social partner agreements.

Unfortunately, the European Commission has taken to initiating ever more social-policy initiatives which are implemented by Council and Parliament in the framework of the ordinary legislative procedure. As a result, the central role of the social partners has been marginalised.

The European Commission's announcement that it will present a Communication on Social Dialogue in 2022, and the European social partners' ongoing negotiations on the 2022-2024 work programme provide an opportunity to develop a strategic vision for the future.



## **German employers' proposals**

The European Social Dialogue should be strengthened and the involvement of social partners in European legislation should move closer back to the centre. In addition, social partners must also inject life into their right to help shape social-policy processes.

Against this background, German employers submit the following concrete proposals for strengthening the European Social Dialogue.

### *Further develop Social Dialogue structures*

The Commission ostensibly wants to strengthen the Social Dialogue but at the same time it is its declared objective to drive the social dimension of the EU forward itself. The Commission must better explain how it can achieve these two goals simultaneously. This also applies for the other EU institutions. In parallel, the social partners need leeway for movement vis-à-vis the EU institutions in the bipartite Social Dialogue. As a central forum for discussion of European economic and social conditions, the tripartite Social Dialogue should concentrate more on its key role in the issues covered. We would like to see:

- **greater respect in the Commission's treatment of the social partners:** the Commission must clarify how it wants to reconcile its ambitions for strengthening the social dimension in the EU with a strong Social Dialogue and strong social partnership;
- **greater trust within the EU institutions** in strong social partnership: awareness of the potential offered by a Social Dialogue capable of effective action must also revive in the other EU institutions – namely European Parliament and Council representing Member States;
- **provision of the necessary infrastructure** for bipartite Social Dialogue together with **technical and legal support**;
- **coordination of Tripartite Social Summit agendas** with the heads of the EU institutions on relevant economic and labour-policy themes;
- **establishment of tripartite advisory committees** on the improvement of the performance of labour markets and social systems.

### *Better involvement of social partners in policy-shaping processes*

The complex interactions between economic and social conditions call for involvement of the social partners also where there are only indirect links to these areas, i. e. outside the scope of article 153 TFEU. Moreover, the contribution that social partners can make in the Commission's process for drafting legislative proposals in the area of social policy is not taken seriously enough: it is true that the Commission conducts consultations as it is supposed to, but the inputs or positions of social partners are hardly ever reflected in the Commission's proposals. We would like to see:

- **review of the Commission's work programme** with a view to involvement of social partners beyond the framework of social policy as set out in article 153 TFEU;
- **appointment of a coordinator for Social Dialogue** in all of the Commission's relevant Directorates-General;
- **better involvement of social partners in the European Semester:** alongside the regular country-specific recommendations in the framework of the Semester process, implementation of the national development and resilience plans under the "Next Generation EU" recovery programme currently occupies a similarly important position.



### *Respect for the instrument of European social partner agreements*

The social partners themselves can adopt binding social-policy measures and framework conditions in the form of joint agreements. At the request of the social partners, such agreements can also be implemented through a Council resolution on a proposal by the Commission (article 155 TFEU). However, CJEU recently decided that the Commission is not obliged to submit the social partners' request to the Council. As a consequence, the Commission decides on implementation of social partner agreements at EU level, a circumstance which can and will act as an impediment to the EU social partners concluding further social partner agreements at EU level.

Yet the social partners themselves must also use the policy-shaping possibilities available to them and must not abrogate responsibility to the legislator. For example, the implementation period of the "European social partners framework agreement on digitalisation" concluded in summer 2020 amounts to three years, so that any regulatory initiative by the European legislator at the present time would disregard the framework agreement. But, by contrast with a majority in the European Parliament, sections of the European Trade Union Confederation (ETUC) have called for immediate presentation of a proposal for a directive on the "right to disconnect", which would conflict with the spirit and effectiveness of the framework agreement. Rendering European social partner framework agreements null and void by overriding them with European legislation is unacceptable for the self-perception of social partners in the European Social Dialogue. We would like to see:

- clear and transparent rules of procedure from the Commission on how to handle **European social partner agreements**;
- **proactive stance of the social partners** to shape the regulatory framework in a practical manner via the instrument of European social partner agreements.

### *Implement good ideas in the "Report on strengthening EU social dialogue" and the "European Pillar of Social Rights action plan"*

The "Report on strengthening EU social dialogue" by the Commission's special adviser, Andrea Nahles, calls for a stronger Social Dialogue and better recognition of the social partners in the economic and social regulatory process. In this context, it discusses important demands from German employers, including appointment of a coordinator in each Directorate-General, stronger involvement of social partners in the European Semester and better consultation on new Commission initiatives across all policy areas. The report also advocates support for and capacity-building of national social partners; it points out that this is of great importance especially in Member States without a long tradition of social partnership.

With regard to the Social Dialogue, the Commission's action plan for implementation of the European Pillar of Social Rights (EPSR) is oriented on many points around the special adviser's report. In the plan, the Commission announces that it will in 2022 present a Communication on support for the Social Dialogue at EU and national level. From the standpoint of employers, particularly welcome is the fact that this will also comprise a new support framework for European social partner agreements.

Most of the proposals from special adviser Nahles are correct and the EU institutions should take them up. If properly designed, the framework for social partner agreements announced in the EPSR action plan can be an element for giving the European Social Dialogue fresh impetus on a sustained basis. We would like to see:



- rapid **presentation of the announced framework for European social partner agreements** which respects the autonomy of the social partners;
- realisation of the intention to **support capacity-building among national social partners**, for example using resources from the European Social Fund (ESF);
- effective **implementation and further development** of the proposals set out in the special adviser's report on the EPSR action plan.

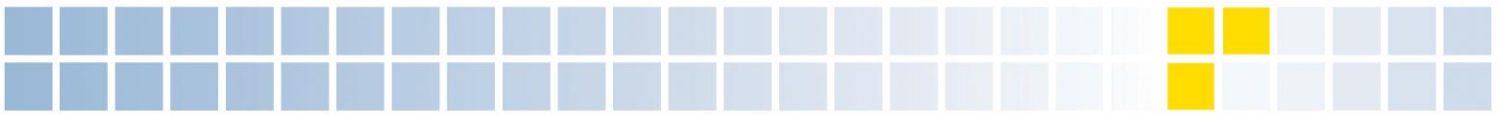
#### *Activation of structures within social partnership*

The social partners themselves can also make their own contribution to strengthening the Social Dialogue and their own autonomy. Joint actions at European and national level – also involving national governments – such as information and support campaigns help to build a positive self-perception of the social partners and an enhanced awareness of their role in the policy-shaping process. In Germany, a joint campaign by the ministry of labour and social affairs, trade unions and employers would be one way to emphasise how strong national social partners can ensure that national particularities are at the centre of the social policy debate at EU level.

#### ***Looking to the future***

The elements of the EPSR action plan and the special adviser's report which relate to Social Dialogue provide a positive impetus for a stronger role of the European Social Dialogue and the European social partners. It is important that the Commission now follows this lead, elaborates these statements of intent in a Communication and then implements them.

BDA and its European partner organisations will deploy for a strong Social Dialogue and strong social partnership in the framework of the next European Social Dialogue work programme and beyond. We expect the EU institutions to respect the rights and obligations laid down in the European Treaties and to inject life into the most recent announcements on strengthening the Social Dialogue.



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BDA is the central business association organising the social and economic policy interests of the entire German economy. We pool the interests of one million businesses with around 30,5 million employees. These businesses are associated with BDA through voluntary membership of employer associations.

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