



To President of the European Commission  
Jean-Claude Juncker  
European Commission  
200, Rue de la Loi  
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Brussels, 6 March 2018

## **Beyond words: a package that delivers more social fairness across the EU**

Dear President Juncker, dear Jean-Claude,

Regarding Social Europe, as we stated in our letter to you in April last year, and during our meeting in Strasbourg in June, there is an urgent need for a Europe of decent working conditions, for a Europe against inequalities, and for a Europe of strong social protection. All workers in Europe, in all forms of work, must have a contract, guaranteeing access to rights and social protection. It is a need for our citizens, it is a need for the European project itself.

Together with Stefan Löfven, Prime minister of Sweden you took a step in the direction of a Europe that protects its citizens at the Gothenburg Social Summit on 17 November 2017. Thanks to the proclamation of the European Pillar of Social Rights, the principles are set, objectives are defined and social concerns are back on the political agenda.

However, these principles cannot be an end in itself. If we want to effectively strengthen our social model, reduce inequalities, guarantee high social standards and strong collective bargaining, it is now crucial to go ahead and to translate urgently these principles in concrete steps. We have proposed a European Social Action Plan, outlining clear measures and tools for the realisation of the pillar's twenty principles. A Social Action Plan that provides the means to deliver on the promises made.

We are glad to see progress on some of the features of the Social Action Plan our PES ministers of employment stressed ahead of the European Social Summit. The institutional calendar will offer many additional opportunities to progress on social Europe. We call on the Commission to be bold and meet the expectations raised.

### **1. For decent working conditions:**

The proposal the Commission made for a **Directive on transparent and predictable working conditions** is a welcome move to protect a larger number of worker, in the spirit of the Pillar of Social Rights' chapter II on working conditions. If adopted it should put an end to unfair employment practices, such as charging workers for their own job training or exclusive contracts that at the same time fail to guarantee paid hours of work. It acknowledges a right for all workers to a written statement of conditions and rights from the first day of employment.

Yet there are several areas where significant improvement is needed to actually strengthen and provide new rights. The EU cannot miss this opportunity to guarantee a quality job to all workers, no matter what type of work contract they have. We have called for maximum use of



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directive to combat precariousness in all forms of work and this implies strengthening the proposal on the following aspects:

- ➔ Addressing working conditions in new forms of work. This means making sure the directive covers platform workers, who are often statutorily self-employed and freelance workers. At the moment the proposed directive avoids reference to the self-employed. The proposals need to be clarified to better cover bogus self - employed and online platform workers, in particular in the definition of the employment relationship.
- ➔ Zero hour contracts are not abolished in the proposed directive– to the contrary they are as such legitimised. This means that the proposed directive fails to protect the most vulnerable workers and fails to reflect the principle 5 of the pillar of social rights, which states that employment relationships leading to precarious working conditions shall be prevented, including by prohibiting abuse of atypical contracts. The exclusion provision for contracts under less than 8 hours a month should be taken away and the provision that endorses contracts with unforeseeable working time should provide at least a threshold of guaranteed paid working time.
- ➔ The right to ask for a better contract lacks ambition, as it does not set any obligation for the employer to answer positively. In order to guarantee some work security and to tackle the worst abusive practices, the directive should go beyond a requesting right and forbid the repetition of short term contracts after a set threshold, again, in accordance with principle 5 of the Pillar of Social Rights.
- ➔ The information on remuneration foreseen in the proposal is not sufficient to guarantee the principles of adequate remuneration and equal pay for equal work at the same workplace. While several references are made to collective bargaining agreements, the directive does not foresee a mandatory information on collective agreements on wages. It does not either clearly state that workers should be informed about existing minimum wages.
- ➔ To better reflect today's work reality, the information on working time should include a reference to the use of communication technologies and acknowledge a right to disconnect, allowing a better work-life balance.
- ➔ The provision requiring the employer to specify where social security contributions are paid should be made available to the worker and potential control authorities via a European Social Security Card.

## **2. Social Fairness Package**

The 'Social Fairness Package' expected to be published on 13 March will constitute another important rendezvous for the implementation of the European Pillar of Social Rights. We expect its several announced initiatives to strongly contribute to guarantee equal treatment in the context of workers' mobility and to enshrine universal access to social protection systems for all workers, regardless of their employment status, in EU law.

### **Equal treatment and fair mobility:**

As you are aware, the revision of the Posting of workers' Directive has been a longstanding call from our political family, and we engaged actively in the process. We are now getting close to the conclusion of the revision, which should set fairer rules for workers' mobility, ensuring full equal treatment, adequate remuneration and allowances and fair protection to all posted workers in Europe. Once this important process successfully completed, the next challenge will be efficient implementation of the legislation.

The much awaited **European Labour Authority** has the potential to do more for better implementation. To do so, it must go beyond administrative cooperation and become an EU Agency, accountable to the EU institutions, with national liaison officers from relevant national authorities seconded to it, and adequate funding. In order to avoid overload and competition with existing labour inspection authorities at the national level, the European Labour Authority

should focus on cross border mobility. It should associate social partners to its governance. The following aspects will be crucial for the European Labour Authority to fulfil its mission:

- ➔ According to the principle of subsidiarity it should intervene at a Member States' request, as a support service for national enforcement authorities and respect national collective agreements.
- ➔ The European Labour Authority should ensure the monitoring of cross-border social fraud and undeclared work, signalling irregularities to Member States and the Commission in case of noncompliance or ineffective enforcement of EU labour and social security rights
- ➔ In an effort to curb flags of convenience, letter box companies, and bogus self-employment, the European Labour Authority should also be given the means to check that the rules for establishment and the principle of performing genuinely substantial activities in the sending Member State are respected. It should have the possibility to alert relevant services in the Member States and the Commission in case of non-compliance, fraud or ineffective enforcement of legislation on establishment, taxation, and other aspects.
- ➔ The European Labour Authority should host a single digital system of declaration of posting and social security coverage to ensure the exchange of information and data between Member States. In addition, the European Labour Authority could play a mediatory role between Member States for example when A1 forms, on social security contributions, are contested. Furthermore it should monitor and whenever possible support the cross-border enforcement of administrative penalties and/or fines.
- ➔ The European Labour Authority should be entitled to organise joint inspections.
- ➔ The European Labour Authority should further provide a one stop shop for information to workers on their rights and to companies on their obligations in terms of labour mobility and social security systems.
- ➔ In all these aspects, it will be essential to ensure the interoperability of other existing European platforms addressing work related issues at European level.
- ➔ The European Labour Authority would greatly benefit from the creation of a European Social Security Card, allowing for greater traceability and portability of rights, social contributions and entitlements, and enabling the verification of social security status and working hours.

### **Universal access to social protection**

The right to social protection is acknowledged under principle 12 of the European pillar of social rights: regardless of the type and duration of their employment relationship, workers, and, under comparable conditions, the self-employed, have the right to adequate social protection. To be effective for all, this principle must be translated in EU law, setting at least minimum standards on various aspects of social protection. This means proposing actual legislation, non-legislative initiatives will not suffice. It also means adopting a universal approach, putting forward measures that benefit all rather than a single category of citizens.

For all these reasons, we expect the Commission to propose the **directive on access to social protection** that you announced at several occasion last year. This directive should bring chapter 3 of the European Pillar of Social Rights to life, creating a reliable safety available for all, able to mitigate the loss or absence of income and providing real support in hard times. We put forward our proposals at several occasions. They remain up to date:

- ➔ The Directive should ensure access to social protection for workers, self-employed, those in atypical work and those out of work.
- ➔ For a minimum income ensuring a life in dignity (principle 14 and 17), the directive should set the minima for schemes in place at national level This is part of the fight against poverty as foreseen in the objectives set for the European Semester for 2020 and of the UN Sustainable Development Goals for 2030. To prevent coverage gaps, it is essential to put an end to age discriminations in access to minimum income schemes.

- ➔ For childcare and support to children enhancing equal opportunities (principle 11), the Directive should endorse the proposals for a European Child Guarantee, that ensure children's rights to healthcare, education, childcare, housing and nutrition.
- ➔ The directive should also consider the funding aspect of social protection and the need for adequate investment in health care systems, social housing, care and essential services endorsed in principle 16, 19, 18 and 11, 20 of the European Pillar of Social Rights. This requires effective social investment to be allowed at national level and earmarked in the future EU Multiannual Financial Framework.

### **European Social Security Card**

The foreseen initiative for a European social security number should be used as an opportunity to create a real **European social security card** as proposed by the European Parliament already in 2014. This European social security card should go beyond administrative cooperation and grant rights to the cardholders, extending social security coverage notably to better comprehend cross border mobility, and providing tangible European added value to all citizens. In the drafting of the proposal for a European Social Security Card, and during the ensuing legislative process, special attention should be paid to data protection and interoperability. The European Social Security Card should include the following elements:

- ➔ The social security card should be mandatory for all workers in Europe, not only cross border workers. Everybody with a job needs to be connected to a social protection system. It has to be a functioning database from the beginning rather than a pilot project.
- ➔ To turn the right to transfer social protection and training entitlements during professional transitions acknowledged in principle 4 of the European Pillar of Social Rights to reality, a European social security card should not only support administrative cooperation but allow greater traceability and portability of rights, social contributions and entitlements. The concept of personal activity accounts, keeping entitlements transparent even when people move between many jobs and many types of employment needs to be further explored.
- ➔ The social security card should also support the fight against undeclared work by enabling the verification of social security status and working hours and becoming, a precondition for having an A1 form, ensuring the availability of up to date information for control, a useful step in the light of recent ECJ case C-359/16, as it would facilitate Member States communication.
- ➔ Whenever collecting data on individuals, whether for rights entitlement and social security status or for information linked to one's work and wages, it is essential to ensure strict data-protection rules, particularly where privacy-sensitive personal data is processed. For the same purpose, and to avoid fraud, the social security card or the social security number should imperatively be forgery-proof.
- ➔ An effective interoperability of the systems and platforms will be essential for the well-functioning of the Social Security Card.

This non-exhaustive list shows us that the European Pillar of Social Rights requires adequate legislation to be passed for its principles to become tangible. It will also require adequate financial means and further "policy coordination" in the fields where the EU's competences are more limited.

### **3. Social investment with the European Social Fund**

Social investment is a productive factor that makes the economy more resilient. The European Social Fund is the oldest existing instrument in the euro budget, it is known under this name exists since 1957 and it acts as the bedrock of a European social union. The European Social Fund got more than 80 billion euro for the current programming period. It broadened the scope of the EU's financial intervention from labour to social inclusion and poverty reduction, and allowed to properly fund the European Youth Guarantee. This must continue with renewed, bold financial commitment for the ESF in the new Multiannual Financial Framework, for the

social triple A to realise. We must make sure we do not proclaim principles on the one hand and cut funding available for their realisation with the other hand.

- The ESF should continue, in the MFF post 2020, to play a key role both in supporting the creation of new quality employment and in promoting social inclusion.
- The ESF should be given the means to address social concerns in all member States and to fight inequalities within European regions. It must better take into account territorial fragmentation, and the striking gaps that can exist for example in terms of youth unemployment between two cities of the same region. Social criteria should prevail over GDP indicators for the allocation of the Fund.
- Considering its success and effectiveness in supporting young people's access to employment, the youth guarantee must be a permanent feature of European employment policies, as acknowledged in principle 4 of the European Pillar of Social Rights. It must benefit from sustainable funding from both European and national budgets. The additional funding provided for 2017-2020 allows the continuation of the programme, but is clearly below the EU's ambition to offer a guarantee to all young people. The European Globalisation adjustment Fund has proven helpful to support people facing company restructuration and unemployment, it should be continued beyond 2020 and turned into a just transition fund, able to support workers facing any kind of job destruction (e.g. digitalisation, environmental effects).

#### **4. Wage coordination against in-work poverty**

The European Pillar of Social Rights is also clear about wages: workers have the right to fair wages that provide for a decent standard of living, adequate minimum wages shall be ensured, in a way that provide for the satisfaction of the needs of the worker and his / her family and all wages shall be set in a transparent and predictable way according to national practices and respecting the autonomy of the social partners. Beyond the principles, for justice, for social and economic reasons, this must become a reality in the EU. This means that current wage dumping and wage stagnation have to end. Several institutions, including the European Central Bank have called for this. Our trade unions partners have called for this. Europe urgently needs a pay rise.

- It is essential for the European semester to monitor the evolution of wages in Member States. This must go beyond the monitoring of the average hourly work wage and reflect both median wage and existing minimum wage(s).
- To deliver on the principle 6 of the European Pillar, an objective of minimum wages at least above the poverty threshold, should be set, i.e. an objective of wages at least above 60% of the national median wage, to be reached either by law or collective bargaining. This is the way for the EU to keep its promise of decent wages are paid for all workers, while respecting national wage setting mechanisms.
- In particular, in countries where this threshold is not yet reached, the European Commission should refrain from making recommendation of lowering wages for competitiveness purposes. Wage is not a macroeconomic adjustment factor, but what allows workers and their families to live a decent life.
- Binding targets to reduce the gender pay gap and phase out unjustified wage discrimination (in particular those faced young people), should be part of the European Semester.

#### **5. Economic and Monetary Union**

Despite a proclamation at very high level in November last year, despite making the social triple A a priority of your commission, the European Pillar of Social Rights is hard to find in the Commission's proposals for the Economic and Monetary Union. We could only find one reference, with little details on how the pillar could be used to rebalance the objectives and governance of the Eurozone. This is a worrying sign for social Europe. The Eurozone relied too much and too long on wages and social security as main channels of competitiveness

adjustment, ignoring social investment, there is an urgent need to revive its social dimension, to meet its objectives of shared prosperity and win the trust of our citizens back.

- We need a more balanced semester that puts people first when taking economic decisions. As stated above, it means a better monitoring of wage development and reversing European policies that encouraged Member States to lower minimum salaries to adopt the objectives of wages at least above the poverty rate all across Europe. Wage, price and productivity policies should be coordinated, building on social dialogue, in order to protect the EU's labour standards
- Closer attention needs to be paid on the impact of fiscal policy on social policy, following article 9 of the TFEU Economic, employment and social policies in the EU must be better coordinated for a more coherent European Semester. The employment and social indicators need to be better taken into account when formulating policy recommendations.
- National reform programmes and the Stability and convergence programmes need to fully reflect social and employment coordination, while Country Specific Recommendations need to address key employment and social challenges. In this perspective, social protection systems should be considered assets for making the economy more resilient rather than economic burdens and benefit from the SGP flexibility rules.
- To guarantee the right to adequate unemployment benefits acknowledged in principle 13 of the European pillar of social rights, it is essential to preserve the capacity of national safety nets to act including in difficult times. This is another reason why the Eurozone needs a European unemployment insurance scheme, which would serve as a Eurozone-level automatic stabiliser ensuring that countries can offer protection of unemployed people and uphold aggregate demand in times of cyclical downturn.

2018 is the last full year of the legislative period and as such the last occasion to put forward ambitious social initiatives before the next European Elections. After a decade of neoliberal austerity, a European social Union, or call it social triple A, is at reach, it is time to act and make it a reality. It is time for the EU to play again its role and bring prosperity, progress, protection and equality for its 500 million citizens. It is time for the EU to answer their expectations and take its social turn.

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