

Annex 2 to the resolution: “Negotiating a fair future: reinforcing the role of social dialogue”

Internal Rules of Procedure governing European cross-sectoral social dialogue negotiations (revised)

Adopted at the Executive Committee Meeting of 9-10 December 2020

Against the backdrop of constant change, the present rules of procedure aim

- a) to clarify the respective roles and responsibilities of the different ETUC member organisations, confederations and European Trade Union Federations (ETUFs) in cross-sectoral collective bargaining at European level;
- b) to ensure a coherent approach; and
- c) to set out the specific procedures to be applied when deciding on negotiations, determining a mandate, conducting negotiations and evaluating their results.

Mandate

Member organisations shall receive all information on and details of proposals concerning the potential negotiations from the Secretariat at least six weeks before the decisions are taken in the Executive Committee.

Information on and details of proposals shall provide an adequate basis for consultations at national and sectoral level and shall address the following in particular:

The cross-sectoral nature of the issue and the justification for negotiations;

- whether negotiations are appropriate on an issue jointly identified by the social partners or on which the Commission has launched consultations;
- the main objectives of the negotiations including the minimum social requirements to be attained;
- the composition of the delegation likely to take part in negotiations;
- the planned procedure for implementing and/or enforcing any framework agreement concluded, i.e. a framework agreement to be implemented directly by the member organisations or one to be extended by a Council decision;

an agreement concluded at cross-sectoral level shall aim to respect existing social rights and standards and to secure general rights for all workers covered by the scope of the agreement, regardless of the nature of their contract and/or employment relationship, the size of their undertaking or the sector in which they are employed.

The mandate must be based on an in-depth knowledge of the actual situation and trends at national and sectoral level. This knowledge may be amassed using all available and appropriate structures and tools such as: consultations with member organisations, discussions in the Workers' Group within the Social Dialogue Committee and the relevant ETUC Committees and/or Working Groups, the specific separate or joint preparatory working seminars held by the social partners and/or internal surveys conducted in cooperation with the ETUC NETLEX network, ETUC institute and/or relevant external institutions/organisations.

Based on such consultations and on the arguments and information gathered, the Secretariat shall submit a draft decision to the Executive Committee, which shall determine, on a case-by-case-basis, the negotiating mandate and the composition of the delegation to negotiate with European employers' organisations. A cross-sectoral issue identified jointly by the social partners or proposed by the Commission may be especially pertinent to certain sectors and/or categories of work. In such cases, the negotiation mandate shall take into account the specific needs and problems of sectors and categories of workers concerned.

Decisions referred to in Article 5 shall be taken in accordance with the procedures set out in Article 13 of the ETUC Constitution. Moreover, as stipulated in Article 13 of the Constitution, in urgent cases decisions concerning a modification to the mandate may be made in writing. However, in such cases there must be at least a three-week internal consultation period for member organisations.

Leading negotiations

The Secretariat shall lead the negotiating delegation, as well as any drafting group established within the framework of the negotiations.

Negotiating delegations and drafting groups

The negotiating delegation shall comprise representatives from both national confederations and ETUFs, depending on the topic of discussion (at least one per country and three ETUFs). One representative of each of the following shall also be present: Women's Committee; Youth Committee and Liaison Committee of Eurocadres/CEC.

The drafting group shall comprise a limited number of delegates appointed from and by the negotiating delegation based on a nomination by the Secretariat. Given its nature and composition, the drafting group acts on behalf of the negotiating delegation to ensure that the priorities are reflected in the best possible way in any draft text drawn up. The drafting group reports back to the negotiation delegation.

Information during the negotiation process

The Executive Committee, the Steering Committee and all relevant ETUC Standing Committees/Working Groups shall be kept regularly informed of progress in negotiations. All information concerning the negotiations to be sent out to these Committees/Working Groups shall be compiled by the Secretariat.

Adoption of results

If the negotiations culminate in a joint draft agreement, the text shall be sent by the Secretariat to the member organisations, at least six weeks before the Executive Committee takes a decision, to enable the organisations directly concerned to hold internal consultations and determine the voting mandate. Under Article 13 of the ETUC Constitution, the member organisations directly concerned shall be agreed by the Executive Committee and shall be at least all Member Organisations in the EU and EEA countries, all candidate countries, all ETUFs, the ETUC Women's Committee and the Youth Committee. The adoption of joint frameworks of actions and work-programmes follow the same procedure.

The Executive Committee may adopt this text as per the procedure detailed in Article 13 of the ETUC Constitution.

Where, following the conclusion of a draft text, the Executive Committee's schedule of meetings is such that the former is unable to honour the six-week consultation period, the Executive Committee may, at the request of the Secretariat and provided that the draft agreement has been explained in detail, give authorisation for the framework agreement to be adopted in writing. A period of at least six weeks shall be set aside for this procedure. The Secretariat shall subsequently provide the members of the Executive Committee with a transparent overview of all replies received and shall indicate whether or not the text may be considered as adopted. In the event that the text is not adopted, the Secretariat may recommend that further discussions on it be held at the next meeting of the Executive Committee.

Decision-making in the event of failed negotiations

By contrast, if negotiations fail, the Secretariat shall inform the Executive Committee accordingly and shall make a recommendation for a decision regarding the future strategy to be developed. The Executive Committee shall decide in accordance with Article 13 of the ETUC Constitution.

Monitoring and following-up implementation

The implementation of each agreement adopted shall be regularly monitored and followed up as per the procedures specified in the agreement in question. The ETUC Secretariat shall monitor implementation internally via regular consultations with member organisations. The (interim) findings shall be used in discussions in all relevant ETUC Standing Committees/Working Groups and in the Social Dialogue Committee, in particular discussions with a view to any review of the relevant text.

Synergy between sectoral and cross-sectoral social-dialogue negotiations

Based on the cross-sectoral agreement adopted, additional sectoral negotiations may be held, the aim being to tailor the agreement and/or to improve it for particular situations and/or the different categories of workers. In accordance with article 13 of the ETUC Constitution, regular reports on European sectoral bargaining, carried out by European Trade Union Federations, shall be made to the Executive Committee. Its consistency with ETUC policy shall thus be ensured.

Annual report on Social Dialogue developments

In cooperation with the ETUI and with the support of the ETUFs, the ETUC shall compile an annual report detailing developments in both sectoral and cross-sectoral social dialogue. Reference shall be made to this report in discussions within the Executive Committee to ensure that a genuine and effective trade-union strategy towards and within European social dialogue is maintained.

Article 13:

The Executive Committee shall determine the composition and mandate of the delegation for negotiations with European employers' organisations in each individual case, in accordance with the voting procedures set out in Article 19. The decision shall have the support of at least two thirds of the representatives in the Executive Committee from member organisations directly concerned by the negotiations. In cases of urgency, decisions concerning the mandate for composition of the delegation may be made in writing. The Executive Committee shall establish the internal rules of procedure to be followed in the event of negotiations. The Secretariat shall supervise the bargaining delegation. The Executive Committee shall be given regular progress reports on bargaining in progress. Decisions on the outcomes of negotiations shall be taken by the Executive Committee in accordance with the voting procedures set out in Article 19. The decision shall have the support of at least two thirds of the representatives in the Executive Committee from organisations directly concerned by the negotiations. Their organisations shall have had the opportunity to hold internal consultations. Regular reports on European sectoral bargaining, carried out by European Trade Union Federations, shall be made to the Executive Committee. Its consistency with ETUC policy shall thus be ensured.

Article 19:

The Executive Committee shall endeavour to reach the widest possible measure of agreement. If a vote is necessary, decisions shall be taken by a majority of two-thirds of the votes. At the beginning of each meeting the Secretariat will ascertain whether the Executive Committee is sufficiently representative for a vote to be taken. The deliberations of the Executive Committee can only be valid if at least 3/4 of the full members are present or represented. The full members may be represented either by their deputies or by representatives from their organisations who have been duly delegated with a mandate in writing. Members entitled to vote are full members and, in the event of absence,

deputy members; should both be absent, another representative from the same organisation who has been duly delegated with a mandate in writing shall be entitled to vote. Voting shall as a rule be by a show of hands, but upon request a roll call vote shall be taken. In this case, the Women's Committee and the Youth Committee shall have a number of votes equal to the number of seats to which they are entitled on the Executive Committee. Each National Trade Union Confederation and each European Trade Union Federation shall have a number of votes equal to the number of Congress delegates to which they are entitled. A proposal shall be carried if it obtains at least 2/3 of the votes of the members present or represented. Any proposal which fails to obtain at least two thirds of the votes of the members present or represented, but obtains at least half of the votes of the Executive Committee members, shall remain on the agenda and be referred back to the Secretariat for renewed examination.