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2015

ETUC key demands for the Climate COP21

Position adopted by the Executive Committee of 17-18 June 2015

In December 2015, countries will meet in Paris under the UN auspices to seal a new global agreement to fight climate change. Ahead of this crucial summit, the ETUC reiterates its key demands to Parties, and specifically to the EU which must continue to play a leading role in the negotiations.

Legal commitments for all Parties based on shared but differentiated responsibilities

Keeping global warming well below 2°C requires ambitious mitigation measures in order to make the world carbon-neutral by the end of the 21st century, pursuant to the recommendations of the IPCC Fifth Assessment Report. As a step in that direction, the Paris climate conference must deliver a legally binding agreement made up of firm, clear and comparable commitments for 2030 from all Parties, reflecting common but differentiated responsibilities. COP 21 must also deliver a credible roadmap combining a quantified, long-term emission objective and intermediate targets to be reached by the different categories of countries. A collection of national pledges will not provide the kind of global political breakthrough climate change urgently requires today.

The Paris conference must also accelerate short-term action against climate change by ensuring the enforcement of existing commitments, notably under the Kyoto Protocol.

Just transition and decent work must be part of the agreement

Shifting from a fossil-fuel to a carbon-free economy cannot be done without changing the labour market at the same time. Placing just transition and decent work at the heart of the Paris agreement will demonstrate the Parties' commitment to coupling the decarbonisation of their economies with a strong social agenda comprising investment in creating quality jobs, workers' participation, greening of skills and curricula, social protection and respect for labour rights. Making a low-carbon economy a desirable prospect for all is key to ensuring public support for the transition.

Equity as a cornerstone

Rich countries must lead the global fight against climate change, not only by drastically reducing their emissions but also by offering poorer countries the support they need for implementing mitigation and adaptation measures. It means that developed countries must stick to the financial commitments they made in Copenhagen. It is obvious, however, that these commitments will not provide sufficient resources to address the financial needs created by climate change. Financial transaction tax, share of proceeds from flexible mechanisms, financial contributions from international transport, and phasing out of environmentally harmful subsidies are all ways of generating additional financial resources to tackle climate change. Pension Funds but also all kind of private investment should contribute to the transition towards a low-carbon economy in a way which is socially and environmentally responsible.

Participation of all groups must be promoted and acknowledged

The transition ahead requires the participation of all stakeholders, and trade unions have a strong role to play in the changes this will entail for the labour market. Since Rio 1992, ensuring broad public participation in decision-making has been identified as a major prerequisite for sustainable development. To that end, Agenda 21 identifies nine major groups within civil society and promotes the strengthening of the role of workers and their

trade unions. Ensuring a comprehensive and balanced representation of these groups is now a common practice within the UN system and UNFCCC texts should not be an exception. The Paris agreement must firmly promote and acknowledge the role played by all major groups, and notably by trade union organisations.

Respect for human rights and workers' rights

The future climate regime must respect human and workers' rights. All mechanisms, including project-based mechanisms, must be based on democratic decision-making and ensure respect for human rights in all countries. Mitigation actions should not jeopardise the right to land, water, affordable energy and other fundamental rights of workers and local communities.

The digital agenda of the European Commission: Preliminary ETUC assessment

Endorsed by the Executive Committee at its meeting on 17-18 June 2015

In its Communication “A digital single market strategy for Europe” (6 May 2015) the Commission adopts the traditional internal market approach.

Its aim is to ensure a proper functioning of the single market, to look for obstacles and burdens to be eliminated: in particular geo-blocking, insufficient cross-border e-commerce, high cost of parcel delivery, adaptation of telecom rules and launching of a European Cloud initiative. The Commission approach is extremely narrow, focussing mainly on the experience of a travelling consumer at a time when the digital transformation is generating major changes in industries and services¹.

Although studies say that an investment of 90 billion Euro yearly is necessary to ensure that Europe keeps its competitive position, the Commission fails to assess investment needs. The huge investment gap is at odds with the target of increasing industry's share of European GDP to 20%. Past industrial revolutions have been sustained by massive public investments and a complex range of institutions, which have adopted appropriate policies to check free market excesses.

The Commission fails to deliver a clear analysis of the strengths and weaknesses of the digitizing industries and service providers in Europe and its impact on jobs, of the risks of abuse of dominant position, and on the compatibility of the digitalisation with the "social market economy" set as one of the EU objectives.

The Commission also invites social partners to include the digital single market in their social dialogue at European level.

Digitalization is not just a technological issue or a question of the market, it is also about just transition of traditional jobs to digital jobs in the industrial and the service sector, it is a question of future society and its cohesion. Digitalization is a megatrend for the world of work, one we must be involved in shaping.

The trade unions' main focus must be put on the spectacular increase in productivity and its huge impact on employment and work. There is potential for major risks – in terms of monopoly building, mass redundancies, new possibilities of supervision and control, even of spying on employees, inadequate data protection etc. – and for major opportunities as well – new possibilities for better information, communication, participation and networking. Monopolies are neither compatible with the “proper functioning of the internal market” nor with the “social market economy” that is among the objectives of the EU (article 3 TEU).

Effective data protection is a fundamental right, which is guaranteed in Article 8 of the Charter of Fundamental Rights of the European Union, as well as in Article 16 TFEU, and it is inseparable from Article 7 of the Charter; the right to respect for private life².

The ETUC is concerned that there is no attempt to analyse the social impact of digitalization on companies in general and labour in particular (Work 4.0), labour law,

¹ For instance new online services for taxis, accommodation, currency exchange and loans etc., transport by drones, nanotechnology, genetic engineering, but also digital tools like 3D-printers which allow manufacturing to take place at the click of a mouse; etc.

² ETUC position on the General Data Protection Regulation – improving the protection of workers' data. Adopted at the Executive Committee on 17-18 October 2012 http://www.etuc.org/sites/www.etuc.org/files/EN-Data-protection_1.pdf

working conditions, work-life-balance, social rights as information, consultation and board-level participation, collective bargaining, social dialogue etc., which will be key to an innovative digital labour policy.

The ETUC is worried about the extension of digital precarious work. There is a risk of de-limitation of work (“always on”) and de-limitation of companies, with crowdworkers executing tasks from remote locations, from home or other workplaces (telework, etc.).

If crowdworking is not regulated, a return to 19th century working conditions might well happen: this growing part of the workforce is exempt from national labour law, and is not covered by fundamental social rights. Crowdworkers and the increasing number of micro-jobbers get no holiday pay, no sick pay, and are not covered by social security. Some trade unions have just established web-based platforms to assist crowdworkers³. Crowdworking must be considered as a new form of outsourcing of work through internet platforms and needs a framework at European level, even though it is still a peripheral phenomenon. The problem of the power imbalance between employers and crowdworkers must be tackled together with trade unions.

The ETUC demands that digitalization be based on quality work and the transition to be anticipated and managed in close cooperation with trade unions, EWCs, workers representatives in general. Good work in industry 4.0 or smart services needs to be based on a new social contract, with strengthened and enlarged information, consultation, participation rights, with democracy at the workplace. Digitalization can potentially even have an emancipatory effect, through sensor technology, automation⁴ and robotization of monotonous repetitive tasks, increase of time sovereignty and time autonomy (e.g. shutdown of email-system after working hours), however until now the main driver of digitalization and the major objective is still cost reduction. New European regulation is to be developed on the base of the aforementioned principles. The ETUC is ready to support the transition to digitalization if the framework is sustainable, just and fair.

The ETUC agrees with the Commission on the importance of improving digital skills. This requires active labour market policies, as well as employers’ readiness to provide training during working time. Skills upgrades should also be offered to the unemployed.

The Commission rightly proposes to improve digital skills and encourages social dialogue in this field. **The ETUC is open to discussing issues linked to the impact of digitalization on working practices in the framework of the European social dialogue,** for instance on skills training leave, on stress, accessibility around the clock, and the ICT gender and generational gap.

A wide ICT gap in terms of gender and skills persists in Europe, despite the strong evidence that women’s active participation in the ICT sector is essential for Europe’s long-term growth and economic sustainability. Women in Europe tend not to take ICT studies and are under-represented in the sector, particularly in technical and decision-making positions. For a digital economy, it is crucial to create further education and training incentives for women and girls, from an early age, to learn to use and upskill in ICT, and to take careers linked to ICT with a view to applying these skills in the labour market. The generational skills gap must also be tackled.

Tools to anticipate and manage change are essential, in particular information in advance of digital transformations and digital restructuring processes, consultation on the process and participation rights as well as forward looking training in digital skills.

³ www.faircrowdwork.org ; www.cloudworker-beratung.de – platforms to create transparency on (poor) working conditions which is part of classical trade union work but on the internet.

⁴ Automation should not be about replacing workers but about new cooperation between workers and machines which demands different skills.

The impact of digital transformation on these tools need to be addressed and discussed to adapt and re-shape them where necessary. The Commission Communication is empty on the impact of digitalization on workers' participation.

The ball is now next in the court of the European Parliament to discuss the Commission's communication. The ETUC calls upon the EP to address the digital challenges not only from the usual narrow internal market perspective but from a societal point of view, including the need to shape the future of industry, services and high quality workplaces in Europe, based on an in-depth assessment of the current digitalization process. The problem of increasing inequalities between the digital elite and "normal" workers and in particular the exploding number of crowdworkers needs to be addressed to avoid an increase in precarity, fake self-employment and the establishment of a new low-wage sector.

The future of work must be at the centre of any serious debate on digitalization based on a skilled workforce in a fair and just society. Putting the focus on obstacles to the single market reflects a narrow view of the changes ahead. . It is of the utmost importance to steer digitalization in a sustainable and fair direction before millions of jobs are jeopardised in Europe⁵, adding to the already high level of unemployment, and before working conditions are dramatically affected. It is high time to kick off a European dialogue over digitalization.

Therefore the ETUC demands a permanent European Forum composed of the European Commission, the European Parliament, and social partners, to discuss how such a European digital vision can be developed and how to shape the future digital Europe, how to design industry 4.0, workplaces 4.0 and smart digital services, on the basis of a clear roadmap. It is in this context that the demand of some stakeholders for a strong regulation of monopolistic digital platforms should be dealt with.

⁵ According to estimates ("The Future of Employment: How Susceptible are Jobs to Computerisation?" OMS working paper by Dr. Carl Benedikt Frey & Michael A. Osborne, <http://www.futuretech.ox.ac.uk/future-employment-how-susceptible-are-jobs-computerisation-oms-working-paper-dr-carl-benedikt-frey-m>), about 45 percent of total US employment is at risk. According to a note by Jeremy Bowles around 45% - 60% of the European labour force might be affected by the risk of job automation (The computerisation of European jobs - who will win and who will lose from the impact of new technology onto old areas of employment? on 17th July 2014, <http://www.bruegel.org/nc/blog/detail/article/1394-the-computerisation-of-european-jobs/>). On the other side, Commissioner Ansip announced the creation of 3 million additional jobs until 2018 in the App economy alone (Le Soir 4 June 2015).

ETUC declaration on 'Better Regulation'

Adopted at the ETUC Executive Committee on 17-18 June 2015

The 'Better Regulation' package¹ published the 19/05/2015 by the European Commission is supposed to ensure better, simpler, less burdensome EU regulation.

The ETUC supports this aim. We want good regulation to protect workers, which is simple to apply and enforce. Legislation should avoid unnecessary bureaucracy and cost. EU legislation can also be more effective if it replaces national legislation in the 28 member states.

In reality, the 'Better Regulation' package puts the supposed needs of business above all others; turns minimum standards into maximum standards; puts a value on impact assessments that they do not have; brings a longer, costlier and more bureaucratic procedure that will risk delaying social progress; makes it more difficult for elected EU institutions to change European Commission proposals and could undermine the principle that EU law applies equally to all. In short, it adds red tape, slows down progressive change and de-democratises Europe. These unwelcome changes are also contained in the new Inter-institutional Agreement².

Social partner agreements

The ETUC insists that the Commission better regulation agenda must respect the autonomy of the social partners and their role as legislators as set out in the treaties. The ETUC is therefore concerned that the Commission states that social partner agreements intended to be Directives³ must first undergo impact assessments focussing in particular on the representativeness of the signatories, the legality of the agreement and a subsidiary and proportionality check.

The ETUC does not consider that these three elements constitute an impact assessment. They are already part of the current process. Going beyond this, by submitting an agreement between trade unions and employers to impact assessment, is not acceptable.

The ETUC rejects the claim that the Commission has the right (under Article 155 paragraph 2 TFEU) to decide whether or not to present to the Council a social partner agreement if the signatories request it.

Putting business above all others

The European Commission appears to view legislation as having to benefit SMEs and avoid placing a 'regulatory burden' on them.

The ETUC opposes the choice of one sector of society, business, as the primary beneficiary of 'better regulation'. The ETUC believes legislation should have a societal benefit, and that the needs of businesses do not come above those of workers or, for example, the environment.

The ETUC believes that proposing a "lighter regime" for SMEs and an "outright exemption for micro-businesses" leads to unfair competition, and undermines the basic

¹ *Better Regulation Package published on 19/05/2015 by the European Commission*

http://ec.europa.eu/smart-regulation/index_en.htm

² *Interinstitutional agreement is an agreement between the three Institutions about better coordination during the legislative procedure*

³ http://ec.europa.eu/smart-regulation/guidelines/docs/br_toolbox_en.pdf

principle of EU legislation applying equally to all. It should be noted that 85% of all employment is in SMEs. Workers must enjoy the same protection regardless of the size of the company.

No evidence is provided to show that any potential cost-savings for business would be invested in innovation and the workforce.

Improving minimum standards

The ETUC objects to the Commission asking member states, as a rule, to not go beyond what is 'necessary' when they implement EU legislation. By doing this, the Commission is turning what are often 'minimum standards' into 'maximum standards' maximum standards which is an infringement of the treaties. The Commission should rather insist on member states' right to improve standards. This is especially important in the social field to ensure social progress.

The ETUC is particularly concerned that the Refit programme has led to a Health and Safety strategy that contains no legislative proposals, and has delayed much needed improvements to existing health and safety legislation.

Impact assessment

The ETUC does not accept that impact assessments are necessarily a neutral technical instrument. Instead they are frequently used as a political tool, not only by delaying legislation, but also by making recommendations based on a model biased towards economic interests on the short term and dismissive of, or even blind to potential long-term benefits.

A long, costly and bureaucratic legislative procedure

Instead of making EU legislation more effective, the ETUC considers 'better regulation' to be erecting several new barriers to the legislative procedure: introducing a major increase in impact assessments and public consultations, establishing a "Regulatory Scrutiny Board" that will have to issue a positive opinion before any new initiative can be taken and a "REFIT stakeholder platform", and proposing 'independent' panels for impact assessments in each EU institution. The ETUC does not agree that one EU institution should be able to impose impact assessment upon another institution. As to the REFIT stakeholder platform, the ETUC calls for a balanced representation of different interest groups so as to avoid another Stoiber group.

The ETUC believes that citizens' disillusionment with the European project is reinforced by the lack of new social legislative proposals, and this new system further limits the possibility of social progress of the EU. The ETUC warns that this risks further discontent with the EU.

A more democratic Europe?

The European Commission asks the European Parliament and Council to carry out an impact assessment if they significantly change Commission proposals during the legislative procedure. The ETUC considers this to be a blatant attempt to make it more difficult for the EU's democratically elected institutions to change Commission proposals.

The ETUC condemns this 'power-grab' by the European Commission, and notes that it is contrary to President's Juncker's commitment to a more democratic Europe.

Transparency?

The ETUC notes that the European Commission's commitment to assessing impact did not apply to the 'Better regulation' package, and that its stated commitment to transparency and consultation did not extend to discussing its 'better regulation' package with the European Parliament.

ETUC declaration

Some low fares airlines undermine collective bargaining

Adopted by the ETUC Executive Committee at its meeting on 10-11 March 2015

When the ETUC Executive Committee convened for their meeting on March 10, pilots in the budget carrier Norwegian had been on strike for 11 days.

The main demand of the Norwegian Pilot Union (NPU) was to have a collective agreement with their real employer, Norwegian Air Shuttle.

In Denmark, Ryanair is establishing a base in Copenhagen, and are refusing the Danish unions' request for a collective agreement.

After several days of negotiating, the conflict in Norway ended in a result both parties were satisfied with on the afternoon of March 10.

The European Transport Workers' Federation (ETF) and its members Parat (in Norway) and FPU (in Denmark) are strongly combating anti-social practices of low fares airlines (LFAs). Together, they request the recognition of trade unions and their ability to negotiate collective agreements (including at transnational level).

The central point in both these airline situations is the fundamental right of workers to negotiate and agree on working conditions and wages with their employer.

Regrettably, some airline companies increasingly disregard established rules, and refuse to negotiate and cooperate with their workers.

The ETUC Executive Committee expresses its deep concern with the development in the European air transport sector, and the race to the bottom regarding working conditions and wages, that we are now seeing.

The conduct of the managements of Ryanair and some other low fares airlines is an attack on all workers in Europe, and is a template for how to destroy the European collective agreement model.

The negative developments in some segments of the airline sector may soon also be a reality in many other sectors, both private and public.

If Ryanair and other low fares airlines succeed in their attempts to undermine working conditions and collective agreements in Europe, it will change the outlook for all employees in Europe, not just in the airline industry.

These examples clearly show the need for imminent better and adapted regulation of the European airline sector. Europe needs common European rules to secure good working conditions for all employees in the sector. The race to the bottom must stop!

The ETUC Executive Committee therefore demands that European authorities immediately revise the current regulations of the sector, in close cooperation with the representative social partners.

ETUC declaration

Greece after the election - an opportunity for Europe

Adopted by the Executive Committee at its meeting on 10-11 March 2015

The political change in Greece is an opportunity, not only for that crisis-ridden country but also for a fundamental reassessment and revision of EU economic and social policies focusing on failed austerity and structural reforms of the labour market.

We highlight once again the criticism already voiced on many occasions in the past by ETUC: right from the outset, the key conditions under which Greece receives financial assistance did not deserve the label 'reform'. The billions of euros that have flowed into Greece have been used primarily to repay existing debt stabilise the financial sector. At the same time, the country has been driven into deep recession by brutal cutbacks in government spending that have made Greece the most heavily indebted country in the entire EU. The consequence is a social and humanitarian crisis without precedent in Europe. One third of the population is living in poverty, the welfare state has been hugely weakened, the minimum wage cut by 22%, with discriminatory conditions for young people; the collective bargaining system and other protections for those still in work dismantled; while the burden of taxation on the lower income groups has been increased. Unemployment now stands at 27%, while youth unemployment exceeds 50%. Access to education has been curtailed. Many people do not have the means to pay for food, electricity, heating and accommodation. A large share of the population no longer has health insurance and can access medical care only in emergencies. The election results are a consequence of these failed policies. .

All this had nothing to do with reforms designed to address Greece's actual problems. None of the country's structural problems has been solved, but additional ones have certainly been created. This has been a policy of cutback and destruction, not rebuilding. Genuine structural reforms worthy of the name would have led to the emergence of new opportunities for economic development rather than driving a highly qualified generation of young people abroad. Genuine structural reforms would have included serious attempts to tackle tax evasion. Genuine structural reforms would have tackled clientelism and corruption in public procurement.

Unfortunately the note, recently presented by the presidents of the Commission, the ECB, the Council and the Euro group on preparing the next steps for better economic governance offers no perspective to change these failed policies.

However President Juncker's call on the Eurogroup to act to maintain the irreversibility of the Euro is welcome. A Greek - or any other country's - exit from the Euro area would only trigger financial turmoil detrimental to ordinary citizens and workers. .

In all European countries, as in Greece, it is necessary to restore a strong industrial relation system and collective bargaining and to implement a large-scale European investment plan for sustainable growth and quality jobs- as demanded by the ETUC. The EU must also have a plan addressing the wider debt problem.

The European project needs to regain its credibility in the eyes of all European working people. The ETUC supports concrete action towards that end.

Towards a European strategy for quality employment

Position adopted by the Executive Committee of 10 and 11 March 2015.

Quality job creation should be the number one priority. Twenty-four million men and women, and five million under 25s, are currently unemployed and some 10 million jobs have been destroyed since the onset of the crisis in 2008. Although unemployment levels have finally starting going in the right direction, Europe's job-rich recovery continues to fail to materialise.

Getting Europe back to work is not the only challenge. Equally important is ensuring that new jobs are quality ones which allow people to have a decent standard of living and contribute to their well-being and to a robust economy. Globalisation, technological innovation and change, demographic trends and the transition to a greener economy are having a profound impact on the labour market. In addition to posing important challenges, all present opportunities for job-creation but there is no guarantee that these jobs will be quality ones. Despite the urgent need for job-creation, this must be in the context of a longer-term vision of the types of jobs that will be created.

European Employment Strategy is failing to deliver on quality jobs. Despite the gradual fall in unemployment rates, the quality and longer-term sustainability of the jobs that are being created gives cause for concern. Many of the jobs being created are temporary and part-time, and underemployment (involuntary part-time and fixed term work, too few hours and work below people's qualification levels), is increasing especially among women and young people. Too many of those in work face a precarious employment situation, plagued by job insecurity, low-wages and exclusion from basic social protection: precarious contracts such as zero hours contracts, false self-employment, unpaid internships and undeclared work are growing negative features of the labour market.

Additionally, the labour market is becoming increasingly polarised: in general, highly skilled/educated workers continue to access high quality, well paid jobs while low-skilled workers are most affected by poor quality, insecure and low paid jobs. There has been a rapid decline of middle-skilled jobs and the workers affected increasingly find themselves in insecure employment situations and/or in jobs with inferior working conditions.

Whilst continued efforts are needed to increase participation levels among women, young people, older workers, migrants and the low-skilled in the labour market, these people are disproportionately represented in poor quality and low-paid jobs and specific attention must, therefore, be paid to the quality dimension of their employment and their particular needs.

The review of Europe 2020 must be used as an opportunity to put quality jobs at the centre of European policy.

The new European Commission has stated its ambition to enhance social justice in the EU. Whether and how this will materialise remains to be seen. For the ETUC, job quality will be a key benchmark for evaluation of any EC employment initiative.

The ETUC continues to stress the need for a change in European economic policy in order to create the right conditions for job-creation by ending austerity policies and fostering internal demand and investment. The focus on investment in the Annual Growth Survey 2015 is a welcome initiative but the ETUC is concerned that the Commission's Investment Plan falls short of the level of commitment needed to

substantially boost quality and sustainable job creation in Europe as set out in the ETUC's own proposal for a European investment plan¹.

These concerns are borne out by the ILO report *An Employment-Oriented Investment Strategy for Europe*, which illustrates that while the Juncker Investment Plan could create over 2 million new jobs, without the right design and funding allocation, as well as a medium-term employment strategy focusing on quality jobs and balanced reforms, it will do little if anything to meet Europe's unemployment challenge².

The mid-term review of the Europe 2020 Strategy and the imminent revision of the Employment Guidelines present an opportunity for European policy-makers to put in place a coherent strategy to deliver quality and sustainable jobs for European workers. Quality jobs should constitute an integral part of achieving the 'smart, sustainable and inclusive growth' that the Europe 2020 Strategy is intended to deliver.

The case for quality jobs

Job quality was already a concern before the crisis but the fall-out from the crisis and the internal devaluations and fiscal consolidation policies adopted have led to an erosion of the European social model and the notion of quality jobs appears to have taken a back stage.

At the turn of the century there was a political consensus, set out in the Nice Council Conclusions (December 2000), around the idea of quality work as a necessary element in delivering competitiveness and full employment. In 2010, following the adoption of the Europe 2020 Strategy, the European Commission's Communication *An Agenda for new skills and jobs* identified 'better job quality and working conditions' as one of the four key priorities for achieving the EU 2020 employment target.

More recently, it has not been uncommon for some European policy-makers and employers' representatives to promote the message that 'any job is better than no job'. This approach to 'competitiveness' means that fair wages, decent employment protection, and even safe and healthy workplaces are considered as posing barriers to job creation, a drag on competitiveness or as 'burdens' on business. In contrast, the evidence clearly demonstrates both the social and the economic case for quality jobs.

Social case. The quality of a person's working life, is a key aspect of their quality of life. Most people will spend a significant part of their lives in work and this will play an important part in helping them to fulfil their socio-economic needs and aspirations. In addition to being a means to earning a living, over the life-course work is likely to have a substantial impact on people's well-being, including social inclusion, or otherwise. Poor quality jobs can lead to income insecurity, social exclusion, poverty in old age and to poor physical and mental health.

Having a job is no longer a guaranteed route out of poverty or the best tool for ensuring social inclusion. The most notable increase in poverty is among working age people, including those who have a job. The rise in in-work poverty and growing income inequalities, among workers as well as the general population, are in stark contradiction with the Europe 2020 objective of reducing poverty.

Economic case. Quality jobs are an essential feature for a well-functioning economy. The ETUC has continuously stressed the need to focus on quality job creation as a key aspect of getting Europe on the path to sustainable growth. It has warned on several occasions that poor quality jobs will make for a poor recovery. The evidence shows that quality jobs are a key condition for economic growth and competitiveness. Better job

¹ *A new path for Europe: ETUC plan for investment, sustainable growth and quality jobs:*

<http://www.etuc.org/documents/new-path-europe-etuc-plan-investment-sustainable-growth-and-quality-jobs#.VOR0IsrQpBN>

² http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_340087/lang--en/index.htm

quality is also associated with higher labour market participation. Quality jobs give workers better job satisfaction, improved skills and greater motivation which in turn leads to stronger, more productive and more innovative enterprises. Poor quality jobs, along with undeclared work, impact negatively on the public purse for example through reduced revenue from taxation, subsidies for low-wages and ultimately poor pensions.

There is a wealth of research confirming the positive link between employment rates and job quality. Indeed, a key message from the OECD's Employment Outlook 2014 is that 'policies should seek to promote more and better jobs'. This is supported by the finding from their recent research³ that "Across countries it does not appear to be the case that better job quality is achieved at the cost of fewer jobs. Countries that perform well in terms of overall job quality also tend to perform well on job quantity (as measured by the employment rate), and vice versa." The renewed attention given to this issue in the Commission's latest Employment and Social Developments in Europe (2014) report is also welcome⁴.

The CEPS Special Report *Medium Term Employment Challenges*⁵ (January 2010), provides further evidence of the link between labour market performance and (job) quality indicators. Their research also suggests some policy priorities for enhancing job quality. They point to: education and training (in view of the correlation between higher employment rates, higher educational attainment and participation in education and training through the life cycle); childcare policies to foster women's participation in the labour market and the reduction of gender employment and pay gaps; and also to working conditions and sustainability of work as key elements of job quality that should not be overlooked.

Defining "quality of jobs" and making 'promoting job quality' a reality

Job quality has to be defined in the EU, even if it is a multi-dimensional concept and an agreed European definition remains difficult to achieve. At the international level, the ILO has defined the concept of 'Decent Work' as 'work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men'. While no such comprehensive definition can be found at European level, the European Employment Strategy (EES) nevertheless contains an overarching objective of 'promoting job quality'.

Just as monitoring the quantity of jobs provides important information about the state of the European economy, the ability to monitor the quality of jobs would also permit an assessment of how the economy is functioning and identify and correct potential weaknesses. It is therefore important to have an agreed understanding at European level of what we mean when we speak of 'quality jobs' and the ability to evaluate progress in that respect.

For workers job security and good pay are overwhelmingly the main criteria for a good job. It is clear, from a trade union perspective, that the key elements for determining whether a worker has a quality job must include: fair wages that allow a decent standard of living and take account of skills and competences, proper working conditions including adequate working time and the ability to reconcile this with their private lives, health and safety protection at work, access to training, skills

³ "Defining, Measuring and Assessing Job Quality and its Links to Labour Market Performance and Well-Being" [VS/2013/0180 (SI2.666737)]

⁴ Chapter 3: The future of work in Europe: job quality and work organisation for a smart, sustainable and inclusive growth, *Employment and Social Developments in Europe 2014 (ESDE 2014)*

<http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7736>

⁵ <http://www.ceps.eu/book/medium-term-employment-challenges>

development and lifelong learning, employment security, collective representation and collective bargaining, non-discrimination and equality and access to social security.

Common indicators and measurable targets for job quality are needed, while recognising the limitations of a one size fits all approach. The issue is to identify which indicators are the most appropriate as the outcomes and results will be different depending on the indicators selected and the corresponding policy approach. Despite the complexities involved, various organisations have tried to develop or proposed indicators or methodologies for assessing job quality including Eurofound, the ETUI, OECD and the ILO.

At the European level work has also been done over the years on developing common indicators of quality of work, dating back to the Laeken indicators in 2001. Most recently, the Commission and the Employment Committee (EMCO) have worked on revising the European concept of quality of work. A streamlined or 'more focused' set of EU Quality of Work indicators has been agreed with EMCO based on four main dimensions: socioeconomic security; education and training; working conditions; and work-life balance and gender equality, which are in turn broken down into a number of sub-dimensions⁶.

While the work carried out by the Commission and EMCO is useful and should contribute to improved analysis, further reflection will need to be given to whether the current European concept needs to be further developed. The ETUC will, with the support of the ETUI, work on developing a position on the dimensions of job quality and relevant indicators. It will also continue to press the Commission to mainstream the objective of quality employment in all aspects of EU policy-making.

Job quality should be at the centre of the governance process.

The challenge, however, remains how to transform the analysis into concrete action that will lead to better quality jobs in Europe. Promoting job quality is currently a clear objective of the European Employment Strategy, expressly stated in Guideline 7 of the 2010 Employment Guidelines. However, it is apparent that, instead of being taken into account as part of the economic priorities, this objective has fallen victim to the current economic policy framework and the choices of most governments. The situation is now even more critical as this objective has been deleted from the Commission's proposal for the new Employment Guidelines published on 2 March 2015⁷.

The ETUC welcomes the 9 March EPSCO Council Conclusions on Inclusive Labour Markets which stress that job quality has a particularly important role to play. Additionally, the EPSCO Council Conclusions (also 9 March) on the Annual Growth Survey and the Joint Employment Report 2015 also state that 'supporting quality job creation' is an important orientation in the field of employment and social policies. The ETUC will insist that the new Guidelines follow the same approach and maintain the objective of promoting job quality.

The Annual Growth Survey has consistently failed to pay sufficient attention to the quality dimension, when setting out the EU's priorities for economic policy coordination within the European Semester. The AGS 2015 calls for a renewed commitment to structural reforms including weakening of employment protection rules and institutions. Furthermore, the Commission maintains the same policy of intervention on wages and collective bargaining where it has no competences, in violation of the EU Treaty. The ETUC urges policy makers to stop the policies of undermining wages, collective bargaining and social protection rights. A new approach to reforms is needed, focusing instead on investing in people.

⁶ See Chapter 3, Annex 1, ESDE 2014 <http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7736>

⁷ 2015 Commission proposal for new guidelines for the employment policies of the Member States : http://ec.europa.eu/europe2020/europe-2020-in-a-nutshell/index_en.htm

While some piecemeal efforts have been made to address some aspects of job quality in some country specific recommendations, the AGS, national reform programmes and CSRs need to take account of this analysis in a more systematic manner. There is currently a failure to make the proper link between the impact of the policies promoted for example regarding wages, collective bargaining and on structural reforms of the labour market and the impact on job quality.

The EMCO job quality indicators should be used to evaluate the impact of structural reforms on work and jobs quality. Social partners should be fully involved in this process. Any reform programme should be evaluated ex ante in relation to its social consequences, notably its impact on job quality, as promised by the Commission President. This should be an integral part of the preparation of the NRPs and CSRs.

The economic governance has to be reformed to take into account social developments, and to be consistent with the Europe 2020 goals. A strengthened governance process should help institutions (governments, the Commission) to be more responsive to the labour market transformation. Its instruments need to be adapted in order to allow early detection of change and elaboration of rapid responses.

It is essential, in the European context, to improve the coherence between budgetary, economic, social and employment policies. Better coordination between the Europe 2020 Strategy and other European policies could be achieved by placing the objectives of the Strategy on an equal footing with the economic ones, to which they are clearly now subordinate, within the European Semester.

2014

ETUC POSITION PAPER ON THE REVISED DIRECTIVE ON INSTITUTIONS FOR OCCUPATIONAL RETIREMENT PROVISION (IORP 2)

Adopted at the Executive Committee Meeting of December 2014

General comments

The ETUC welcomes much of the approach and the aims of the proposed amendments to the IORP directive. Transparency, better governance and in the end safer pensions is positive.

The ETUC and its affiliated organisations represent the interest of workers, which includes their occupational pension entitlements. Therefore, the ETUC is in favour of a regulatory framework, which can safeguard future pension promises, and secure the best possible management of workers' pensions assets. There is need for a balance between risk and return on one hand and on costs on the other, overall for the aim of achieving strong outcomes of the occupational pension schemes. The rules must serve the aim to secure decent incomes in retirement.

However, the proposal takes as a starting point that is not self-evident. In the recitals of the IORP2 proposal, it says that action is needed to further develop private retirement savings since social security systems are coming under increasing pressure, and that citizens will increasingly rely on occupational pensions as a complement in the future. This is stated as a fact. From the ETUC point of view increasing pressure on social security systems is not a result of a natural law, but stems from political decisions about cuts in public spending, about increased exemptions to employer's obligations to finance the social security systems through social contributions, about taxation and not adapting the public schemes to people's needs. The ETUC reiterates its message that the first pillar pensions should be reinforced so that they can provide adequate retirement incomes and allow older people to enjoy a decent standard of living and economic independence. In addition, occupational pension schemes, based on collective agreements, should be promoted in comparison with other types of additional pensions savings, in order to complement public pay-as-you-go pension schemes.

In addition, the ETUC is concerned about the focus on creating an internal market for IORPs and their services. This should not be a goal in itself.

The recitals of the proposal describe a genuine internal market for occupational retirement provision as crucial for economic growth, job creation and for tackling the challenge of an ageing European society. The ETUC holds that these statements are exaggerated. Nothing in the proposed text leads to this conclusion.

The ETUC holds that the aim of any pension reform should be improved incomes for workers in retirement.

We remain concerned about the lack of a serious attempt to quantify the potential benefits of IORP 2. It is not acceptable to introduce such a far-reaching set of new requirements without evidence-based policy-making, particularly in view of the potential costs to pension schemes, and ultimately pension scheme members.

IORPs do not normally sell their services in an open market. The establishment of occupational pension schemes is often a result of discussions between trade unions and employers, as part of the pay workers get for their work. Thus, IORPs exist and work in a context of social and labour law, and are not only framed by financial regulation.

Specific comments

Prudential regulation, aiming at securing future pensions and the functioning of the financial market as a whole, is normally justified and something the ETUC can support, aiming at an adequate replacement rate, providing protection against inflation. However, the specific regulation for IORPs must be reasonable, in order to serve its aims.

Investment options: the proposal allows for IORPs to invest in assets, which are not traded on regulated markets, with reference to investment risks diversification, and achievement of target returns in line with long-term investment aims. The ETUC reminds decision makers of the need of caution in this respect, because of the risk affecting the scheme members by such investments.

Pension benefit statement: information to scheme members and beneficiaries is important. Standardisation of the required information can be positive and contribute to comparability between different pensions schemes and pensions providers. Information must be understandable for the general recipient. Descriptions of accrued pension rights must be delivered in a user friendly manner. The ETUC suggests leaving out forecasts from mandatory information provided in a pension benefit statement. Vague predictions about future earnings are not helpful when it comes to occupational pensions. First pillar pensions could be seen differently. People often remain covered by the same national pension scheme over their working life, but occupational pension schemes are more often linked to a specific employer. Only half of the European workers are covered by an occupational pension scheme. Therefore, it does not come naturally to expect that somebody who changes jobs, remains covered by the same occupational pension scheme, and not even any occupational pension scheme at all. A statement of accrued rights up until now is fine, but predictions based on future earnings might even be misleading.

In addition, the ETUC reiterates that information needs to be provided not only in an electronic way, but on paper. Information via electronic media can be helpful, but only in addition to printed letters and benefit statements.

Governance: the ETUC advocates that people who are entrusted with responsibility to manage other people's future pensions should be reliable. Still, the educational and professional requirements must not lead to the exclusion of representatives of the social partners in the management structure. Fit and proper requirements (article 23) should be applied to the management board as a whole, on a collective basis to governing boards and not to individual members. It is important that there is appropriate and enough competence to safeguard efficient management of pension assets, but rules must not be introduced to exclude lay trustees or other social partner representatives. Second pillar pension arrangements are normally also social contracts, which leads to the conclusion that the same rules as for mere financial institutions are not appropriate. Social partners are key in the setting-up and governance of these. Lay trustees, where this arrangement exists, and trade union representatives in other governing bodies of pension funds, have a major and crucial role in the running of pension schemes. By law trustees must act in the best interests of beneficiaries, i.e. scheme members. Lay trustees and other trade union representatives are essential to maintaining member trust in pension schemes and member interaction with pension schemes.

In relation to risk management (articles 25 and 26), we believe that IORPs should ensure that there are appropriate procedures for their employees to report potential or actual breaches internally. This should include those on a short-term or temporary contract, as well as persons outside the traditional employee relationship (such as consultants and interns). In some countries, there are already well-established procedures where elected trade union representatives can function as a middleman in internal reporting. If such procedures exist on national level, they should be allowed to continue. The confidentiality

of the employees who report potential or actual breaches should be protected throughout the process.

In relation to remuneration practices (preamble 37 and article 24), we would like to point out that provisions on remuneration should be without prejudice to the rights, where applicable, of the social partners to conclude and enforce collective agreements, in accordance with national law and customs. The social partners can, and must be allowed to, assume the responsibility of sound and sustainable remuneration principles. It is crucial to have remuneration policies and practices in place that are consistent with and promote sound and effective risk management and corporate governance. Remuneration in general is an issue that should be left to the social partners to decide upon, since pay is, according to art. 153.5 in the Treaty on the Functioning of the European Union (TFEU), not for the EU to deal with.

Cross-border delivery of IORP services is not necessary. Of course, cross-border activity of an IORP should be allowed if employers and trade unions find this way of organising a pension scheme relevant. The majority of employers are small and do not operate cross-border with employees in different countries. Employment contracts, to which occupational pension scheme membership can be a part, are framed by a national context. The overwhelming majority of workers remain in their country of origin. Tax is still national and the link to the work contract is strong. Therefore, the ETUC does not see the need for attempts to promote delivery of cross-border IORP services.

Concluding remark

Occupational pensions and IORPs exist in a context of social and labour law. There is a close link to work contracts and they are often based on collective agreements. They relate to and complement national social security and pension scheme, so therefore they cannot be seen in isolation from these. In addition, taxation has strong impact on the existence and the outcome of occupational pension schemes. Many policy areas are interlinked with occupational pensions. Decisions regarding these are often national and therefore not easily coordinated at a European level.

Furthermore the ETUC points to the need to implement a coordination between member states on taxation issues also in order to avoid that member states experience the loss of some of their financial resources which are needed to face the challenge of an ageing European society. The ETUC and its member organisations will remain actively involved in the continued debate about the IORP 2 proposal and other issues regarding occupational pensions in Europe. The comments above are the result of ETUC discussions so far, and they will be further developed, as the debate continues.

ETUC declaration on the EU-level investment plan

Adopted at the meeting of the Executive Committee on 2-3 December 2014

Investment for sustainable growth and decent jobs is a long-standing ETUC demand.

The ETUC therefore welcomes the EU focus on investment and concrete initiatives contributing to this end and, in particular, the recent initiative towards an EU-level investment plan.

Indeed we urgently need actions to provide high employment, decent work, high competitiveness and innovation through public and private investment. With more than 5 million young unemployed, quality jobs creation is a vital issue for the well-being of younger generations. Prosperity underpins high income in the public and private sectors.

Therefore the Juncker plan must prioritise investment, which creates jobs and focuses especially on countries with serious unemployment problems.

However, investments alone are not going to trigger growth. A policy to increase demand, and therefore wages, is indispensable, in parallel with an investment policy, since the investment deficit in Europe is largely linked to the lack of demand.

The ETUC is concerned that the size of the Commission's investment plan is insufficient to meet the needs. Indeed, the investment deficit in the EU, in recent years, ranged from €280 to €515 bn during the worst part of the crisis. Therefore it is difficult to see how an investment plan of €315 bn over three years could be strong enough to trigger a U-turn in the European economy.

The ETUC plan is much more ambitious, calling for 2% of EU GDP per year for 10 years. A plan of that dimension is indispensable to lay the foundations for sustainable reindustrialisation of the EU, and to generate up to 11 million new jobs.

We are equally concerned about the feasibility of the Commission's plan. The leverage ratio of 15 is based on returns from only the very safest investment. This could rule out any investment at all in much of Europe, limiting the impact to the countries already in the least difficulty. For the plan to reach even the level of investment it is targeting, it needs significantly more resources committed to the fund by the EU and Member States.

The ETUC calls for adequate democratic governance of the investment plan, and for the inclusion of social indicators in the selection criteria. Social partners at national level should participate in the selection of projects submitted for financing. The ETUC should be involved in the work of the European task force to ensure that the focus of investment is on the sustainable reindustrialisation of Europe, supporting decent jobs and good services.

Finally, we are concerned that the Commission's plan focuses on neoliberal structural reforms, and furthermore could force governments into risky public-private partnerships, with taxpayers liable in the event of losses. We believe that Europe needs more social investment that should be excluded from the calculation of the public deficit.

The ETUC calls on EU institutions and Member States to support strong action on investment. Workers and citizens are expecting tangible results from Europe.

The EU has to act now to improve occupational health and safety

Resolution adopted by the Executive Committee of 2-3 December 2014

The new President of the European Commission (EC) has recognised a lack of social fairness in European policies and promised a new approach in order to restore citizens' confidence. Workers' health and safety is one of the areas where action is crucial and urgent. The previous Commission undermined health and safety on the grounds of reducing administrative burdens and submitted occupational health and safety (OSH) directives to the REFIT exercise. Data show that working conditions in Europe are deteriorating and workers are dying, and yet the results of this exercise will not be ready until the end of 2016.

The European Parliament (EP), the European Trade Union Confederation (ETUC) - in the resolutions adopted in 2011 and 2013 - and the tripartite Advisory Committee on Safety and Health at Work to the European Commission (ACSHW) called on the Commission to issue a European strategy that would set more measurable goals, binding timetables and a periodic evaluation. They also called for better and stronger Labour Inspectorates and concrete measures to stop the rise in psychosocial risks at the workplace. The Framework on Health and Safety at work 2014-2020, of June 2014, ignored the recommendations from the Parliament, the ETUC's demands and the advice of the ACSHW, which all called for a strong OSH strategy for Europe.

The ETUC agrees that more efforts on OSH are required. However, the ETUC is of the opinion that the EC Strategic Framework 2014-2020 is not about better protecting workers against accidents at work and occupational diseases, but rather about breaking down European legislation in a bid to resolve the economic crisis, and offers no real action. The ETUC expresses its deep concern about the deterioration of working conditions and the increasing inequalities between and within Member States (MSs) in that field.

The Commission's line up to now has been to avoid making any legislative proposal in the area of safety and health until the evaluation of the entire body of EU OSH legislation has been completed, in the framework of the REFIT exercise. Several legislative proposals, including those supported by both employers and workers (e.g. the hairdressers' agreement, proposals on carcinogens and mutagenic substances, European agreements on inland shipping...) have been blocked as a result.

Therefore, it is now the new Commission's responsibility to develop a proper strategy, in order to launch real action aimed at protecting the lives and health of workers in Europe. This action, however, needs to be developed through a tripartite dialogue with the new European Commission, to boost collaboration between employers and workers in SMEs, support the role and knowledge of the labour inspectorate and safety reps as well as the following urgent issues.

Providing clear guidelines to Member States for developing national OSH strategies – in cooperation with the Social Partners – that can be monitored and enforced by the Labour Inspectorate, will definitely help to implement and consolidate health and safety rules promptly in Europe, as the EC Strategic Framework outlines, and avoid social dumping in the EU. Nevertheless, this should not be a substitute for legislative action in the fields where EU legislation has a strong added value.

This is particularly the case in major areas of concern: musculoskeletal disorders, the prevention of occupational cancers, the protection of reproductive health against toxic substances, chemical risks including new materials and chemical disrupters of the hormone system, as well as gender issues arising from different exposures, prevention

strategies, diagnosis and recognition of occupational diseases.

The ETUC recalls the provision of article 153 of the Lisbon Treaty: in order to achieve a harmonisation of working conditions, the basic tool for EU action is the adoption of directives with provisions that level up European standards which will have a positive impact on the sustainability of work.

Specific attention and concrete policy action should be directed to precarious work for both men and women, which increases psychosocial risk factors that lead to significant adverse effects on human health including high risks of cardiovascular diseases and premature mortality. The gender dimension has to be taken into account in conducting risk assessments. In this regard, the knowledge and activities of safety reps are essential to foster better working conditions, and their role should be better supported.

The EC needs to take on the problem of tackling psychosocial risks, which is of great importance to all workers: men and women. The potential consequences of psychosocial burdens (pressure, isolation and loss of social support, new communication technologies, flexible working time, impossible deadlines, restructuring...) include cardiovascular diseases, musculoskeletal disorders, dermatologic problems, suicide, relationship problems with colleagues, family and social networks, and increased risk of violence, with consequences for both physical and mental health. In the medium term, enterprises suffer from absenteeism due to lengthy illnesses, and turn-over and productivity are damaged.

All these issues were not taken into account by the previous European Commission, which failed fully to include democratic principles in the drafting of occupational health and safety policy in Europe, infringing fundamental European Treaties.

The ETUC calls on the new Commission to put forward a substantial strategy for occupational health and safety in Europe. Data show that working conditions in Europe are deteriorating and workers are dying every day. In this perspective the futile and endless discussions on reducing administrative burdens by cutting back health and safety legislation must stop. 'Refitting' legislation means formulating the best possible rules to address new and emerging risks and protect workers' health. It means reformulating and transforming existing legislation into a modern, up-to-date framework. Therefore, the following four concrete actions are needed urgently in Europe:

- The ETUC calls on the Commission to launch at once an ambitious initiative to establish binding European exposure limits for an extended number of toxic substances. For the moment, binding limit values for exposure of workers have been established at European level for only three carcinogenic substances, while workers are exposed to several hundreds of carcinogens and mutagens. Women in particular are often exposed to a cocktail of substances both in the workplace and the home which can increase risks, including to the viability of their offspring.

The new Framework does not mention the need to improve the existing legislation on the prevention of exposure of workers to carcinogens and mutagens, whereas it should be a priority for the EU. This shortcoming in EU legislation clearly shows the need to change the slow standard setting procedures and catch up with reality. More than 30 million workers in Europe are exposed to carcinogenic, mutagenic substances beyond levels that are considered acceptable and more than 100,000 people die every year from those work-related diseases.

The proposal made by several Member States to establish 50 binding limit values for carcinogen substances in use in European Union workplaces is strongly supported by the ETUC. If this list were based on the existing best legal standards in Member States for each substance, this would allow for faster action and exclude competition between MSs by using lower safety standards for workers.

- Moreover, the ETUC demands the immediate inclusion of reprotoxic substances in the scope of the carcinogen and mutagen directive, due to the severity and irreversibility of the health effects for workers (especially pregnant women) from exposure to these substances. Indeed, whereas the Commission wants to ban gold plating (i.e. national laws that go further than EU legislation), several Member States have decided to include the field of reprotoxic substances in the scope of their national legislation concerning carcinogenic and mutagenic substances.
- The three existing directives concerning musculoskeletal disorders (vibration, manual handling and display screen equipment) are outdated in many ways and therefore need to be transformed into modern, enforceable legislation. The process of formulating a new holistic directive on musculoskeletal disorders must first be initiated by the European Commission.
- The enormous problems in Europe concerning psychosocial risks in relation to deteriorating working conditions and health and safety at work can no longer be ignored. The problem cannot be controlled by non-legislative instruments only. Legislative measures are urgently needed to fight a risk with epidemic proportions.

The Executive Committee asks the European Trade Union Institute (ETUI) to establish, in cooperation with affiliates and ACSHW, a list of 50 binding occupational exposure limit values (BOELVs) for relevant carcinogenic substances.

The Executive Committee agrees to organise, in coordination with the International Trade Union Confederation (ITUC), 28 April 2015 Worker Memorial Day activities in order to emphasise our demands. ETUC affiliates will be actively involved in these activities, and in lobbying their governments.

ETUC Declaration to the new European Commission

Adopted by the Executive Committee at its meeting on 21-22 October 2014

Economic policies followed until now to tackle the economic and social crisis have failed. They brought about low growth and deflation, increased precarious work and unemployment, particularly youth unemployment, rising poverty and inequalities. Divergences within and between countries increased.

Competition has been extended to all fields, including taxation, workers' rights, workers' wages, workers' protection, working conditions, and social protection.

Competitiveness should be achieved on the basis of fair social standards, good wages and the development of skills and competences – not on the basis of unfair social competition.

Economic governance must fully integrate the objective of a social Europe. Austerity policies must stop. Countries must be given the fiscal flexibility necessary to see a revival of employment.

A continuation of current policies will fail and further alienate workers and citizens.

The ETUC has a clear proposal for a new path for Europe. Our proposal is based on an investment plan of 2% of EU GDP per year over ten years, leading to sustainable growth, to an environment friendly reindustrialisation of Europe and to social investments. Investment in childcare and care for the elderly is necessary to ensure that men and women have access to jobs. Our plan would bring 11 million new jobs. Public investments are necessary to trigger private investments.

The ETUC is convinced that social dialogue is the best way to find progressive and fair solutions. Social dialogue must be developed at all levels. Existing agreements must be implemented. The ETUC will continue its dialogue with employers and with EU institutions for more and better jobs.

The ETUC also reiterates its position on the Transatlantic Trade and Investment Partnership (TTIP) negotiations: no to Investor-State Dispute Settlement (ISDS), a positive list clearly protecting public services and the inclusion of standards of the International Labour Organisation (ILO) with an enforcement procedure. We oppose the Comprehensive Economic and Trade Agreement with Canada (CETA) since it does not meet these conditions.

The ETUC supports fair and better regulation. We reject the REFIT deregulation project impinging on workers' rights and protections. All workers, whether they work in big, small or micro companies, must be equally protected.

The ETUC is determined to stand against all types of social dumping. The Posting of Workers Directive should be revised to ensure equal treatment of posted workers. We want a social progress protocol preventing economic freedoms from taking precedence over fundamental social rights.

The ETUC supports an ambitious programme on energy and climate including provisions for a just transition and taking care of workers negatively affected.

The ETUC supports freedom of movement in the EU. Abuses, by employers and/or illegitimate restrictions by governments, if and when they exist, should be addressed.

The investment programme proposed by Jean-Claude Juncker is not ambitious enough, compared to the ETUC plan. However, the ETUC believes it could be a step

in the right direction, provided it is not simply a reshuffling of existing funds. We will closely scrutinise the source and implementation of this plan.

The President has also emphasised commitment to decent jobs, social dialogue, and equal treatment for posted workers, thus echoing some ETUC demands.

It is now time for the Commission to deliver on all these objectives. Nice words will not guarantee the new path for Europe that the ETUC is demanding. Action is necessary to restore people's confidence in the capacity of the EU project to improve their lives.

Annual Growth Survey 2015: Europe must have a new start

Adopted at the meeting of the Executive Committee on 22 October 2014

ANNUAL GROWTH SURVEY 2015: EUROPE MUST HAVE A NEW START

The ETUC's priorities for the 2015 Annual Growth Survey

Since the publication of the first Annual Growth Survey (AGS) in January 2011, the EU has essentially pursued a coordinated policy of fiscal austerity, and wage and social deregulation. The ETUC has systematically called on European policy-makers to change course, warning against the negative effects of such policies. It has also warned of the contradictory nature of the Commission's European Semester policy recommendations and that the focus on austerity, even if couched as 'growth-friendly fiscal consolidation', would hamper Europe's economic recovery and predominate over social priorities. This focus on austerity also hampers the EU's transition towards a greener economy.

In advance of the publication of the fifth AGS (2015), Europe's economic, employment and social situation demonstrates that the ETUC has been correct in its assessment.

The state of the European Union: stalling recovery, looming deflation and persistently high unemployment confirms the failure of EU austerity policy

Five years after the outbreak of the 2009 financial crisis, the ETUC is forced to observe that:

- The economic recovery in the Euro Area, which was all too weak to start with, has evaporated in the second quarter of 2014, with economic activity stagnating again (zero growth). There are even those¹ who take the view that the Euro Area economy has never recovered since going into recession in 2011, implying that the recession in the Euro Area has now lasted three years. Meanwhile, growth forecasts are being revised downwards once again, with very meagre growth rates for 2015 and 2016, although several member states outside the Euro Area (UK, Poland, Sweden) seem to be enjoying somewhat better prospects.
- The European Central Bank (ECB) has failed to respect the price stability target it pledged to pursue. Inflation in the Euro Area is now well below its target (below but close to 2%), and with an inflation rate of just 0.4% too close to a situation of deflation. Eight member states (of which 6 are in the Euro Area) were already experiencing deflation in August 2014.
- Even the President of the ECB is now forced to admit that the recovery is not on track, that longer-term inflation expectations are no longer anchored and that we need demand side policy, in particular fiscal policy to relaunch the economy.
- Individual Member States have become prisoners of the dynamics of competitive wage deflation. The structural deregulation that was imposed or introduced in Greece, Portugal and Spain is now working to put intense

¹ *Business Cycle Dating Committee of the Center for Economic Policy Research*

pressure on France and Italy. However, if the latter were to introduce the same agenda of structural reform, then demand in the internal market would suffer a major blow and the economy would definitely be pushed into deflation.

- Along with economic recovery itself, Europe's longed for 'job-rich recovery' has failed to materialise: 25 million people, including 5 million under the age of 25, remain out of work. The EU employment rate (20-64 year olds) continues to hover around 68.4%, making the Europe 2020 target of raising the employment rate for men and women to 75% seem increasingly unattainable. Although unemployment rates have started creeping downwards, the slow pace of reduction and the poor economic outlook suggest that it could take a long time, perhaps even a decade or so, before unemployment returns to its pre-crisis levels.
- One in four Europeans are "at risk of poverty" and the EU2020 target of lifting 20 million people out of poverty will not be met. The most striking increase in poverty has been among the working age population: 'in-work poverty' is becoming a structural feature of the European labour market and in 50% of cases taking up a job is not enough to lift people out of poverty². Underemployment, precarious and low-paid jobs, downward pressure on wages and the decentralisation of collective bargaining have all contributed to this state of affairs. Additionally, reductions in social protection coverage and social transfers to households at the bottom of the income distribution scale is an important factor behind the increase in general poverty rates.
- Structural reforms have been unbalanced, focusing to a large extent on labour market reforms targeting the supply side including the weakening of collective bargaining and lowering of wages, and the reduction of social benefits. Though the origins of the crisis are to be found in structural problems associated with the financial and banking sectors, action to address these issues remains unsatisfactory. The euro has been saved, but the markets have only been calmed rather than tamed. Member States remain at their mercy and small and medium-sized enterprises continue to suffer the negative effects of the lack of access to finance.
- Encouraged by the Commission, many Member States have zealously implemented reforms reducing employment protection legislation. The aim of these reforms is to increase labour market flexibility on the premise that this will boost job creation, despite the lack of evidence of the link between such reforms and lower unemployment. Indeed, the ILO has recently highlighted major flaws in the analysis supporting this view, which led it to warn of the risk of policy-makers making "hasty and ill-informed reforms on sensitive political issues with far-reaching economic and social consequences"³.
- While some policy-makers suggest that we are starting to see the signs that these reforms are having positive effects on the labour markets in some countries, many of the jobs that are being created raise serious concerns about their quality and longer-term sustainability. Temporary contracts accounted for more than half of the growth in employment in the year to the first quarter of 2014. The quality of the work available for many workers is deteriorating and precarious employment relationships, such as zero hours contracts and false self-employment, are on the rise, as is underemployment in the form of involuntary part-time work and over-qualification.

² *Employment & Social Developments in Europe 2013, European Commission*

³ *Deregulating labour markets: how robust is the analysis of recent IMF working papers, ILO, 2014*

http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_238796.pdf

- Despite the Council's recognition that for labour market reforms to be successful, close interaction with Social Partners is a requisite, all too often Governments have acted without properly consulting and involving the social partners. The involvement of the national social partners, particularly trade unions, in the European Semester process remains wholly inadequate.
- The divergence between national economies and their labour market and social situations is increasing, as well as divergences within countries themselves. While some Member States are doing relatively well, others are lagging well behind. This increasing divergence, resulting in greater inequality, social instability and exclusion, if not addressed could seriously undermine the European project.

The Commission continues to attribute responsibility for Europe's poor economic performance and the deterioration in the employment and social situation to the legacy of the crisis and the lack of structural reforms by Member States⁴. However, it is exactly the insistent pursuit of incorrect policy responses that has derailed economic recovery, exacerbated unemployment and led to increased poverty.

Europe's policy-makers can no longer afford to deny the risks and dangers of their twin policy of austerity and deregulation and continue to use the alibi that structural reforms are by definition successful and that workers simply need to be more patient until they deliver positive results. With double digit unemployment rates and deflation looming, such denial of reality is no longer an option, or Europeans will continue to be scarred by mass unemployment, high levels of poverty and increasing inequality for the foreseeable future.

The 2015 AGS must set a new course for Europe

The ETUC notes the shift in tone in Jean-Claude Juncker's speech before the European Parliament in July. In particular, the proposal to urgently devise an additional European investment programme of 300 billion euros within the first three months of the new Commission, and the reference to establishing a wage floor in each Member State, are interesting.

Nevertheless, the 300 billion euros referred to is far below the ETUC's estimates of the level of investment needed⁵. We await the concrete details of Mr Juncker's 'Jobs, Growth and Investment Package' to see whether it has the potential to deliver real results, or whether, like the 2012 Compact for Growth and Jobs, it will be found lacking.

The ETUC, therefore, urges the incoming Commission to transform words and promises into real, effective and adequate action. To do so, the following measures need to be undertaken:

- To tackle the problem of the lack of aggregate demand, the role of public investments needs to be urgently upgraded. Besides strengthening economic structures and longer-term growth potential, public investment draws in private investment by re-launching aggregate demand and re-establishing positive demand perspectives for private business⁶. The ETUC's proposal for investment of 2% of GDP over a longer period of time remains valid and

⁴ The Commission's LABREF Database reveals that some 3500 labour market reforms have been carried out since 1999

⁵ A new path for Europe: ETUC plan for investment, sustainable growth and quality jobs - http://www.etuc.org/documents/new-path-europe-etuc-plan-investment-sustainable-growth-and-quality-jobs#.VDJi_crj1BM

⁶ The IMF's World Economic Output 2014 also highlights the long and short term economic benefits of increasing public infrastructure investments: <http://www.imf.org/external/pubs/ft/weo/2014/02/>

should be the basis for the new investment plan that the incoming Commission is in the process of drawing up ([Annex 1](#)).

- To move ahead with the European investment plan and to relaunch public investments, an in-depth discussion, including the social partners, on ways to introduce more and sufficient flexibility into the Stability Pact is needed. For example, a golden rule allowing Member States to run a structural deficit that equals their public investment efforts in % of GDP in specific circumstances, would be helpful.
- To ensure that the European investment plan is one that will work for all of us, in particular also those countries finding themselves in most difficulty, the financial markets' monopoly in deciding which Member States have access to finance and at what cost needs to be stopped. The ECB's role of providing, in cooperation with the EIB, finance for productive investment must also be discussed. Besides 'credit easing' (the ECB printing money at zero interest rate for the banking sector), 'investment easing' (the ECB providing finance to the EIB or a special European fund to be invested in the future of Europe) should also be seriously considered.
- To avoid the trap of deflation, structural reforms that pit workers against each other so as to squeeze their wages and working conditions even further downwards, need to stop ([Annex 2](#)).
- To support a process of self-sustained growth, the role of fair wages as an engine for growth needs to be recognised. Collective bargaining practice and its coverage must be promoted as well as a collectively bargained wage floors or a statutory minimum wage in those countries where trade unions consider it necessary.
- To address poverty and also support demand, European households need guarantees of decent incomes. Guaranteed minimum incomes could be a way forward. In the meantime, social protection benefits and pensions should be at least maintained, and preferably raised and indexed, to ensure that people have a decent standard of living ([Annex 3](#)).
- To invest in the training and education of the workforce, develop the 'learning society' and, in general, support the process of innovation and the shift towards a low-carbon and green economy, policy-makers should no longer view workers with stable employment contracts as being privileged and overprotected 'insiders' and as the root cause of precarious work practices. Policy-makers should opt for addressing labour market segmentation by a policy of "levelling up" the protection embedded in temporary contracts. The spirit (as well as the letter) of the European Social Acquis should become the focus of European policy against precarious work practices, for example the Directive on Fixed-Term Work, which is intended to ensure that fixed-term contracts are the exception and do not become the rule. It is a key mistake to think that access to training and development of innovative work practices will be improved by making all labour contracts precarious, since the reality is quite the contrary ([Annex 4](#)).
- To make the quality of jobs a priority, the European Employment Strategy needs to be revived. Many of the objectives set out in the Employment Guidelines, notably promoting job quality, remain valid but have become victims of the dominance of economic priorities. The review of the Employment Guidelines and the Europe 2020 Strategy mid-term review, provide an opportunity for an honest evaluation of the results of the past four years and to set in place corrective measures that will lead to smart, sustainable and inclusive growth by adopting a structural reform agenda that

works. All proposed EU economic governance measures must be assessed for their impact on employment and job quality. Proposals aimed at product and services reform may have substantial impacts on employment and job quality in the targeted sectors. Where negative effects can be foreseen, these should only be pursued if measures to mitigate and offset them are also included in the reform proposals.

- To support women's, young people's and other vulnerable workers' full participation in the labour market the quality, not just the quantity, of employment must be assured. Further efforts to eradicate pay gaps, notably the gender pay gap, and remove barriers to the labour market are needed. The European Semester should support this. Gender equality must be effectively mainstreamed in all EU policies, including the Europe 2020 Strategy. The ETUC welcomes the Employment and Social Affairs ministers' June 2014 Conclusions on 'Women and the economy', particularly the call for a pillar on gender equality within the Europe 2020 governance framework⁷. Employment services and the Youth Guarantee, which is currently the victim of poor take up and implementation, must be properly funded to facilitate young people's transition into the labour market.
- To secure a strong and robust financial basis for our social security systems, policies that shift the tax burden away from labour should take care not to endanger social benefits themselves. They should also steer away from taxes with regressive effects such as consumption taxes and focus instead on taxes on capital, wealth, energy and natural resources. Quality, affordable and accessible public services (including proper care infrastructure), and adequate redistribution mechanisms and social transfers can also help to counter inequalities. Social investment should not be seen as a cost for competitiveness but as a long term contribution to an inclusive society ([Annex 5](#)).

The ETUC is more than ever convinced that Europe needs a fundamental change of course. The slowdown in economic recovery and the poor outlook for the employment and social situation support this view. When Jean-Claude Juncker presented his political guidelines for the next European Commission in July 2014, he gave Europe's workers and citizens a glimmer of hope that there would be 'A New Start for Europe'. The next AGS will be the first test of whether the Juncker Commission can begin laying the foundations for a new start and for rebuilding the trust and confidence of Europe's workers and citizens.

The 2015 AGS should set Europe on that new course by giving priority to a robust and ambitious multi-annual European investment plan, by trading in the agenda of structural deregulation for an agenda that promotes quality jobs, and by recognising the role of wages as an engine for demand, investment and jobs. This can only be done if "The promotion of employment, improved living and working conditions, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion are the common objectives of the EU and its Member States in the social and employment fields", as set out in Article 151 TFEU, form the cornerstone of a new start for Europe.

⁷ *Employment, Social Policy, Health and Consumer Affairs Council Conclusions on 'Women and the economy'*, 19 June 2014 paragraph 28: <http://www.consilium.europa.eu/meetings?lang=en&id=d218e541-cd5c-45c4-90c9-138a801c68c7>

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1. Estimating the effects of a European Investment Plan: up to 11 million new jobs could be created
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Towards a new framework for more democracy at work

Resolution adopted at the Executive Committee meeting of 21-22 October 2014

Key messages:

- *The ETUC calls for a Directive introducing a new and integrated architecture for workers' involvement in European company forms. Building on the existing EU acquis, the Directive should set high standards on information and consultation, and introduce ambitious minimum standards on workers' board level representation as an additional source of workers' influence.*
- *The Directive would become the overarching reference on workers' rights to information, consultation and board level representation for all European company forms. The new Directive would accommodate the existing acquis on information and consultation (e.g.: Directive 2002/14/EC) and not replace it.*
- *A Directive on rights to information, consultation and workers' board level representation applicable to all European company forms would address the gaps and loopholes in the EU acquis. Above all, by demanding such a Directive the ETUC is proposing a truly European vision for EU company law. The Union needs to send strong signals that it defends a business model based on social justice and sustainability.*
- *Prerogatives of trade unions are key and should be secured throughout the Directive.*

Background

Democracy at work – the need to strengthen workers' involvement

The right to information and consultation is a fundamental right recognised in particular by the Charter of Fundamental Rights and the revised European Social Charter. It is also a social objective of the European Treaties. This means that the Union is not only under the duty to protect dialogue between management and labour; it is also required to promote it. It is long standing ETUC policy that workplace democracy is a key element of a sustainable company. In sum, the case for more workers' involvement can be made in the name of both social justice and good corporate governance. Yet there are a number of weaknesses in the EU acquis and its implementation, which jeopardise this vision for a fair and sustainable company.

EU law on workers' involvement suffers from poor implementation. Meaningful consultation is frequently hampered by delayed information, poor and incomplete data. Information and consultation are the necessary starting point for any other form of participation. Information and consultation are likely to work better in companies where workers' board level representation is in place as it normally allows privileged access to early information.

Furthermore, the EU's approach to company law and corporate governance challenges the very principle of democracy at work. EU company law is characterised by a minimalist approach based on very light-touch regulation and a strong mutual recognition principle. EU action is restricted to removing barriers to cross-border business rather than promoting a European model for corporate governance. The Refit agenda is a recent demonstration of this extreme deregulation approach. Workers' involvement is treated as a potential burden to businesses rather than as an asset¹ or as a right to be given equal precedence.

The consequence of this approach is an erosion of workers' involvement rights and an incoherent EU acquis. European company law does not fight regime competition and the inevitable race-to-the-bottom that goes with it. Company managements feel free to misuse European law to minimise their obligations under national law. They are also able to organise their corporate structure in order to pick and choose the less "inconvenient" national legislations (e.g.: letter box companies).

Because the different stages of European legislation in this area have been so inconsistent, European company law is full of loopholes, gaps, and discrepancies. Procedures and principles for workers' involvement vary widely between different pieces of legislation. Today, the level of rights and obligations achieved in the SE Directive is regularly put into question in subsequent instruments. For instance, the cross-border merger Directive refers to the SE Directive only in so far as board-level representation rights are concerned. Information and consultation rights are explicitly excluded. Another example is the 2014 proposed Directive for a single-member private limited liability company (the 'SUP'), which removes almost all references to workers' rights. The proposal also generates strong concerns with regard to fiscal and social security evasion and sustainable corporate governance in general².

In this light, the Athens ETUC Congress mandated the new Secretariat to strengthen the in-depth work on information, consultation and workers' participation. A December 2011 Resolution³ confirmed this mandate, stating that the EU institutions should be provided with a detailed ETUC proposal for European standards on workers' involvement.

ETUC position

A coherent and unambiguous approach to workplace democracy is needed. The ETUC calls for a Directive introducing a new and integrated architecture for workers' involvement. Building on the existing EU acquis, the Directive should set high standards on information and consultation, and introduce ambitious minimum standards on workers' board level representation as an additional source of workers' influence. Workers' board level representation should not be treated as a stand-alone right. It should be part of an overall architecture ultimately aiming at strengthening information, consultation and workers' influence. Workers' board level representation can become a source of reliable and early information and, when integrated within a meaningful information and consultation procedure, increase workers' voice on company strategy.

¹ <http://www.etuc.org/documents/etuc-resolution-stop-deregulation-europe-rethink-refit#.VAmGvmccS71>

² <http://www.etuc.org/documents/etuc-position-single-member-private-limited-liability-companies#.VAhzh2ccS70>

³ <http://www.etuc.org/a/9425>

Without prejudice to Member States' prerogative to import EU principles into their national system, the Directive on information, consultation and workers' board level representation should apply in cross-border situations only. No matter which EU law a company relies on to create European company forms (such as the SE, SCE), it would always adhere to the standards of the new Directive. In other words, the Directive would become the single reference on information, consultation, and workers' board level representation for all European company forms. It should be clear that this new Directive would accommodate the existing *acquis* on information and consultation rights (e.g.: Directive 2002/14/EC) and not replace it.

Horizontal standards on information, consultation and workers' board level participation would address the gaps, loopholes and inconsistencies in the EU *acquis*, reducing incentives for abuses and circumvention.

Above all, by demanding such a Directive, the ETUC is proposing a truly European vision for EU company law. The Union would be fostering good corporate governance, based on a socially and economically successful model for European company forms. Transnational companies have emerged as key players at the European level, benefitting from and in turn shaping European market integration. Clearly, the EU legislator cannot satisfy itself with a mere coordination role between different national company statutes, based essentially on a country of origin approach. On the contrary, the emergence of a cross-border, genuinely European standard for workers' involvement is the dynamic contribution of the labour movement to the European project. The Union needs to send strong signals that it defends a business model based on social justice and sustainability. Comprehensive transnational standards on workplace democracy are an expression of the original spirit of European integration: the promotion of sustainable, forward-looking principles.

Cornerstones for an EU Directive on information, consultation and workers' board level representation in European company forms

The ETUC calls on the new Commission to prepare a consultation of the European social partners on rights to information, consultation and workers' board level representation in European company forms. The ETUC welcomes in this regard the declarations made by both the President-elect of the Commission and the President of the European Parliament, recognising that workers' board level representation is missing from the European social model⁴. In order to contribute constructively to this necessary debate, the ETUC will continue expert work with a view to proposing concrete provisions.

The Directive should build upon existing information and consultation standards, taking the best of the existing *acquis*. Attention should be paid in particular to an early information procedure and stronger consultation rights in order to reach agreement via a meaningful dialogue before a decision can be finalised. Workers' representatives must be able to anticipate and manage change. Cross-border information and consultation processes must be meaningfully linked to information, consultation and negotiations at the local level, without interfering with national rules on information and consultation. No worker should be excluded from the scope of application of the Directive, and effective and dissuasive sanctions must imperatively be put in place⁵.

The Directive should foster smooth articulation between the three dimensions of representation so as to strengthen workers' influence in the consultation phase. For instance, an appropriate solution should be found to encourage workers' board level

⁴ *Die Mitbestimmung* 05/2014

⁵ <http://www.etuc.org/consolidation-three-directives-worker-involvement>

representatives to regularly report back to the European Works Council and/ or any other level of workers' representation.

Regardless of the scope, the EWC and SE Directives can serve as inspiration for the design of the new Directive with a view to ensuring that as much space as necessary is left to negotiations. Key principles should thus be laid down in binding minimum standards. The practical implementation of these principles should primarily be negotiated at the company level. Fall-back provisions, applying in the absence of an agreement or if the parties so wish, should be contained in subsidiary requirements. Since the instrument is a Directive, national transposition laws would always be able to provide for more protective rights.

Subsidiary requirements should include new provisions on workers' board level representation, going beyond the "before and after principle" enshrined in the SE Directive. Under this principle, there is almost no incentive for management to conduct meaningful negotiations on board level representation where such a scheme was not in place in the company before a conversion/ merger, nor is there any incentive to build something entirely new and distinctly European, tailored to the company and its stakeholders.

Workers' board level representatives should be full members of the board with no lesser rights and obligations than the members representing the shareholders, including the right to vote, to ask questions and to put items on the agenda. In addition, workers' representatives should be given the means required to exercise their duties, including training, expenses, protection against dismissal etc. Appropriate rules on confidentiality should be devised in order to ensure that workers' representatives can adequately report to various levels of representation.

Prerogatives of trade unions are key and should be secured throughout the Directive and the exercise of workers' involvement in all its forms. Taking the EWC Recast as an example, the Directive should in particular foresee that trade unions are to be informed of the beginning of negotiations and that access to trade union expertise is essential.

ETUC declaration following the results of the European Parliament elections on 25 May 2014

Adopted at the meeting of the ETUC Executive Committee on 12 June 2014

The result of the elections demonstrates the growing distance between workers and citizens with the EU institutions and their leaders. It is a clear signal that austerity policies imposed by national governments during the last five years failed.

The message of voters is clear. Unemployment, precarious work, low pay is the major EU problem. Policies supporting the creation of quality jobs, protecting people and the European social model must be implemented.

ETUC has clear demands and proposals. They are summarised in our “social compact for Europe”¹ and in the large-scale investment plan² we are supporting. With this plan the EU could create 11 million jobs and trigger a sustainable reindustrialisation of Europe.

This plan can be implemented if political leaders are ready to act on the voters' message.

Anti-European, extreme right, xenophobic and authoritarian parties offer no solution. They are dangerous. We reject them totally: they are in contradiction with our values of equality and solidarity. Their economic policies would have disastrous consequences on employment, wages and social protection. In a globalised world European states need to join forces; hiding behind national borders is not tenable.

EU institutions must be more transparent, more democratic and respect the vote expressed by citizens. Therefore the European Council must propose a candidate reflecting the choice of the democratically elected European Parliament.

The new European Commission, starting with its President must address the demands made by the ETUC for a new path for Europe.

During the next mandate the ETUC will strive to represent workers' views and to act for quality employment and a social Europe.

¹ <http://www.etuc.org/social-compact-europe>

² http://www.etuc.org/documents/new-path-europe-etuc-plan-investment-sustainable-growth-and-quality-jobs#.U5hb_cqCRho

ETUC position on the new European Commission's five-year programme on migration (EC Communication “An Open and Secure Europe: Making It Happen”)

Adopted at the meeting of the ETUC Executive Committee on 11-12 June 2014

DG Home affairs launched a Communication aimed at setting priorities in the migration policies for the next five-years. In it, the ETUC recognises a new narrative for the migration phenomenon in Europe.

However some areas of concern have been detected and improvements can be introduced.

Third-country nationals should benefit from a full ‘equal’ treatment at the workplace and on the labour market, including access to employment in public services. The EU working plan needs more concrete proposals to ensure participation of migrants in the labour market with long-term perspectives.

Trade unions urge action to eradicate any practice of exploitation of migrant workforce within the informal economy. For that purpose, the EU needs a framework of action on regularisation of migrants.

The common asylum system made positive progresses, but ‘responsibility’ and ‘solidarity’ are not visible yet. The ETUC will continue to gather political consensus on the 4 proposals set in its Resolution for a more effective protection of migrants and refugees, their lives and their rights on the EU's borders.

The EU and its agencies should be strongly committed to the respect of fundamental human rights and international conventions protecting migrants, asylum-seekers and their family members.

The ETUC is ready to build a structured dialogue on migration with DG Home affairs, in coordination with DG EMPL. The ETUC will also make a claim for a seat in the Consultative Forum of FRONTEX.

Background

The European Commission DG-Home Affairs published in March 2014 a Communication to the European Parliament and the Council entitled An Open and secure Europe: making it happen - COM(2014) 154 final.

Therein, DG Home affairs sets priorities in the migration policies for the next five-years (2015-2019). Four out of five chapters are dedicated to movements of people across EU Borders, including economic migrants, asylum seekers and legitimate travellers.

With the previous five-years programme (the Stockholm Programme) having reached its end, the Communication paves the way for the definition of the next EU policy in the migration field and triggers the legislative process which will involve European Parliament and Members States on the same footing (co-decision procedure).

The ETUC set-out its priorities in the Action Plan on Migration and within the ETUC Resolution for a More Effective Protection of Migrants and Refugees, their Lives and their Rights on the EU's Borders.

The ETUC priorities concerning economic migration can be summarised as follows:

- a) Recovering a correct balance between the right to free movement of labour and the protection of social standards, mainstreaming equal treatment in the entire EU acquis on migration and fostering a rights-based approach to integration and inclusion.
- b) Enhanced access to labour market facilities and protection including training and recognition of skills and qualifications, access to social security and portability of pension rights.
- c) Encouraging the exit of undocumented migrants from their irregular condition or undeclared employment.
- d) Encouraging Member States to promote effective integration policies with well-funded public services, and enhancing ability of trade unions to provide services and assistance to migrants.
- e) Supporting collective bargaining and social dialogue - boosted by an increasing membership among the non-national population - as an instrument for improving diversity management in the workplace and adapting the current rules to accommodate an increasing presence of third country nationals in the workplace and in the labour market.
- f) Tackling trends behind the movements of third-country nationals triggered by international trade, with special focus on secondment of work or other forms of cross-border service provision implying movement of workers.
- g) Enhancing the EU legislation, investing more on a structured dialogue on migration with DG Home affairs, in coordination with DG Employment, pursuing different objectives: an enhanced implementation and enforcement of the existing acquis; a reduced fragmentation of the current legislation on economic migration; legislation supporting stable or stabilization of migration flows.
- h) Following up the engagement taken in the Action Plan on Migration aimed at advocating the ratification of the main international conventions including the UN convention on the protection of the rights of all migrants and their family members (1990) by all EU governments and the Convention 189 on domestic work.

In the field of movements connected to people seeking international protection the ETUC expressed the need of an enhanced asylum policy calling upon Member States for greater responsibility vis-à-vis the international community and even more importantly vis-à-vis the obligation to respect human lives and human rights for those seeking protection in line with the UN 1951 Convention on refugee status and its 1967 protocol.

In the urgent context of the soaring pressure on the Southern borders of the EU and with the urgent aim to stop unacceptable deaths in the Mediterranean Sea and on land borders such as those on Spanish-Morocco borders in Ceuta and Melilla or between Greece and Turkey, as result of the infringement of obligations stemming from international conventions, the ETUC advanced its proposals:

- i. Migration policy should become a shared responsibility and competence of the EU and all Member States. EU institutions and their agencies must implement a genuine common policy for asylum and migration. Resources must be adequate to the tasks they seek to tackle and they should be bound by, and made accountable to, fundamental human rights as enshrined in the European Treaties.
- ii. The pushing back of boats should be replaced with the duty of search-and-rescue in the sea. An EU Regulation shall remove any national legislation allowing prosecutions against those who provide assistance to people in need. The ETUC also denounces the use of protective equipment which is able to cause serious physical injury such as that on the border fences in Ceuta and Melilla.

iii. Implementation of a programme called FRONTAID aimed at creating welcoming public structures under the EU umbrella in areas exposed to large scale arrivals of migrants and asylum-seekers in compliance with the respect of fundamental rights as enshrined in the EU law. Such welcoming structures will: provide first-aid assistance; start and manage procedures concerning identification of migrants or asylum seekers; proceed to a preliminary examination of an asylum application in order to point out the competent Member State according to the Dublin II Regulation; cooperate with the competent Member State to instruct an application for other kinds of permits; supervise the triggering of return procedures, when needed, and ensure an effective right of appeal.

While renewing the strongest commitment of the ETUC Secretariat to the full implementation of the Action Plan on Migration and of the ETUC Resolution for a More Effective Protection of Migrants and Refugees, Their Lives and Their Rights on the EU's Borders; and having taken into account the discussion held in the ETUC Migration Working Group and the suggestions that came from its members;

The Executive Committee is called upon to adopt what follows as contribution to the Communication 'An Open and Secure Europe: making it happen'.

FOR ADOPTION

A new Narrative for the Migration Phenomenon in Europe

The ETUC appreciates the attempt to change the narrative of the migration phenomenon in Europe. The Communication stresses that migrants enrich our societies with an enjoyable diversity and insists on the contribution that migrants bring to the EU economy.

The EU is entering a phase of consolidation of the progress achieved so far. No new legislative initiative is expected in the coming years. The EU Commission wants to concentrate efforts on an improved coherence among different domains of the migration policies. Of interest is also the idea of going toward "a single area of migration" codifying and streamlining the substantive conditions of admission as well as of the rights of third-country nationals.

The reference to the necessity of adjusting the EU policies to both short and long term economic needs can be welcomed. It is acknowledged that people wish to come and work in Europe, some temporarily and some on more permanent basis. This should help bring stronger attention to rights of and opportunities for long-term migrants, their families and children, and for more investment on integration and inclusion policies.

The focus on the contribution of migrants to the EU economy shifts the attention to the labour market and its inclusiveness. Special emphasis is on recognition of qualification, access and portability of rights acquired under the social security schemes, and intra-EU mobility of migrants.

If the contribution to the EU economy can be better achieved through a precise analysis of the labour market needs, the ETUC welcomes the EU Commission's requirement for a closer involvement of social partners in this exercise.

A new stance is visible on the rights-based approach to integration and all political levels are called upon to show greater responsibility. National political leaders are urged to take decisive action to ensure an open and secure Europe where fundamental rights are guaranteed, building on the Charter of the Fundamental Rights of the EU.

Concerning the management of the Schengen area, the intentions to remove obstacles in obtaining visas for travellers, migrants and asylum-seekers are clear. Concerning the

latter, positive developments are expected from the declared intention of pushing Member States to undertake greater responsibility and solidarity for relocation of asylum seekers, or for tackling emergencies causing disproportionate inflows of people in search of international protection.

Concrete proposals are also advanced or envisaged to prevent hazardous journeys to cross-the EU borders and to take would-be migrants away from traffickers.

Areas of Concern and possible Improvements

Against these positive developments, the ETUC identifies reasons for concern and suggestions for improvement, here grouped in four chapters mirroring the four chapters of the Communication linked to movements of migrants across the EU Borders.

Chapter 1. For an effective Policy on Migration and Mobility.

Equal treatment at work must become an EU standard for third-country nationals.

The reference to 'fair' treatment and non-discriminatory access to the labour market is a not a sufficient standard for EU legislation. Third-country nationals should benefit from a full 'equal' treatment in the workplace and on the labour market, including access to employment in public services. This principle should not be limited to integration policies but should feature the overall efforts for better implementation and enforcement of the EU *acquis* on migration.

The EU working plan needs more concrete proposals to ensure a stable presence and opportunities for professional development and participation of migrants in the labour market with long-term perspectives. In this sense, it is important to enhance recognition of qualification and skills for all migrants and not only for those who have been admitted under the schemes for entry and work of high skilled migrants.

DG HOME affairs should implement a stronger coordination with other services of the EU Commission. In particular, mobility from third countries and building/recognition of qualifications, job and skill matching would be better managed if designed within a single frame of action, to be agreed with DG EMPL and DG EAC.

The same applies to all the available tools to support mobility, skills and diplomas recognition and non-discrimination, which are in place for EU mobile citizens and should be available to third-country nationals working in the EU.

Equal treatment should be ensured to the third-country nationals employed in a Member State as is already the case for EU citizens. The equal treatment principle should protect third-country nationals employed in a Member State against discrimination on grounds of nationality, ethnic origin, or gender as regards access to employment, conditions of employment and work, in particular with regard to remuneration, dismissal, and tax and social advantages, by ensuring equal treatment, under national law, practice and all measures/protections set in collective agreements, in comparison to nationals of that Member State (Recital 3, Directive 2014/54/EU On Measures Facilitating The Exercise Of Rights Conferred On Workers In The Context Of Freedom Of Movement For Worker).

The ETUC demands and a structured dialogue with DG Home affairs.

A dialogue on migration policies can be structured taking inspiration from existing practices in other EU Commission services such as the Advisory committee on Free Movement in DG Employment, or other forms of structured social dialogue in DG REGIO and DG EAC.

DG EMPL should be charged with ensuring uniform protection for migrant workers or detect risks of under-protection or distortions of the labour market including undesired

practices of social dumping. DG EMPL should make a better use of the competences in article 153 of the TFEU and finalise a proposal for a framework directive on rights of third-country nationals at work.

In DG Home Affairs, the European Migration Network already engages representatives of national governments in a structured network that can be used for the purpose of a closer exchange with trade unions on the most important areas of migration policy. Enlargement and implementation of such a network can be the starting point for setting up a proper structured dialogue in the migration field.

Such a structured dialogue should ensure that all legislative initiatives and policies aimed at governing labour conditions and implementing integration of third-country nationals and their families (regardless of their legal basis) pass through proper consultation with social partners at EU level before their adoption, as well as at national level for their transposition and enforcement.

The EU needs a clear strategy for regularisation of migrants and to fight their exploitation within the informal economy.

In the EU Commission's words, a credible approach to irregular migration needs a combination of measures. But this combination still relies on policies enhancing the 'security side' of the problem which have proved to be insufficient. Indeed, it is recognised that the offer of illegal labour opportunities by employers is a pulling factor for irregular migration or a cause for migrants to fall into an irregular position. Trade unions denounce the fact that entire areas of the EU economy depend on irregular work of migrants. Trade unions urge action to eradicate any practice of exploitation of migrant workforce within the informal economy and/or related to the undocumented position of the worker.

For that purpose, the EU needs a framework of action both on legal channels of migration not limited to high-skilled professionals and on regularisation of migrants. The employers' sanction directive is not a sufficient instrument to discourage irregular employment of migrants but most of all is not a suitable instrument to ensure migrant workers with appropriate rights and opportunities for transforming their irregular job into a regular one, having evaluated the individual case. The EU should address this issue with the view of offering opportunities of regular stay, granting permits of stay and full equal treatment, for migrants attracted and exploited in the informal economy. This also implies more effective prosecution of employers perpetrating offences against migrant workers.

International trade and third-country nationals posted within cross-border provision of services.

The ETUC urges for a clear stand on the protection of fundamental rights of individuals performing their work on the territory of Member States. This issue will likely become significantly more relevant in the coming years. The EU Commission links migration policies with trade policies and wants to encourage short-term movement of high-skilled professionals supplying services. A more flexible visa system can facilitate temporary stays of non-EU workers.

Trade unions highlight the fact that the EU institutions have not been able to detect dangers behind labour mobility linked to cross-border provision of services. The recent adopted Intra-Corporate Transfers Directive is an example of that. The EU scheme for intra-corporate transfers, if not corrected at the moment of the transposition into national laws, endangers the protection of fundamental labour rights of workers performing their job within EU territory. This affects both workers of third countries (whose situation in the labour market would be differentiated) and workers of the destination countries who, as a result of social dumping, would face pressure to lower their working conditions.

This area – linking labour movements and international trade - calls for a renewed and integrated strategy framing Visa Policies and Economic Migration into a single policy framework. All measures aimed at opening legal channels for labour migration, implying the issue of a residence permit or of a visa, should set clear rules for what conditions of employment and work are concerned. Such rules should strictly abide by the rule-of-the-law-of-the-place-of-work.

Chapter 2. On Schengen, Visas and External Borders.

More flexible provision of visas can be an opportunity for Europe. However it should be accompanied by clear rules clarifying that all individuals on EU territory can claim for the respect of the fundamental rights of the EU and defining clear rules for standards at work, even in the context of provision of services. Such rights must be firmly anchored to the principle of equal treatment based on the respect of the *lex loci laboris* (Law of the place of work). The ETUC considers that all attempts of governing labour migration flows and conditions of employment should abide by the principle of equal treatment, irrespective of the type of working contract and length of stay.

The ETUC underlines the dangers coming from the ‘trading’ of the visa/permits. It creates a ‘double standard’ that is not acceptable when fundamental human rights are at stake. The possibility to ‘purchase’ visas, long-term residence permits or even citizenship to those who possess large resources is an increasingly common practice in many Member States.

This liberal practice by which nationality is regarded as a good that can be acquired on the market is at odds with the daily experience of trade unions which witness the difficulties (and often human tragedies) that thousands of people suffer attempting to see their fundamental right finally recognised. Third country nationals experience unjustified delay or the denial of their rights to family reunification. The same happens for people seeking international protection.

Chapter 3. On a common European Asylum System in Practice

The common asylum system has made progress, but ‘responsibility’ and ‘solidarity’ have yet to materialise. It is necessary to discern structural reforms of the EU Asylum Package from urgent measures to tackle emergencies set by sudden large scale arrivals of people caused by extraordinary events or humanitarian crisis.

Structural reforms must include the revision of the Dublin Regulation, by enhancing the protection of asylum seekers during the process of establishing the State responsible for examining the application, and by clarifying the rules governing the relations between states¹. Displacement of refugees is already possible under the Dublin Regulation scheme, but statistics prove that the resettlement of asylum seekers is limited to a handful of cases. Closer cooperation between national authorities and the EU institutions can trigger mechanisms of mutual support, through a balanced approach taking into account the population of each country and also alleviating the situation of Member States subject to disproportionate influx.

1

The Dublin Regulation provides rules and criteria to allow a sharing of the burden for refugees. European Directives set common standards for dealing with asylum and protection of migrants and set rights of refugees and their families or third-country nationals entitled to international protection. REGULATION (EU) No 604/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013 establishing criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)]

Member States should give asylum-seekers the chance to lodge a request for international protection in their own country or in a transit country, without being obliged to face dangerous trips to the EU, likely arranged with criminal organisations. The ETUC urges the European Commission to advance proposals once the feasibility study on possible joint processing claims outside the EU is finalised.

The different agencies and programmes active within the European Asylum System should finally help a more effective resettlement of asylum seekers. These instruments should give priority to the interest of the migrant and be respectful of fundamental rights of the EU.

FRONTEX should abide by fundamental human rights. Border guards and operational staff of FRONTEX have to comply with international conventions calling for full respect of human rights. In this sense, the ETUC deplores the lack of a genuine dialogue on trade union rights between the EU agency and EPSU, the European Federation of Public Service Unions, notably regarding the common training programme of border guards. This is all the more urgent in view of the EC plans to step up FRONTEX's coordinating role of national border guards.

The ETUC will take the necessary step to claim a seat in the Consultative Forum of FRONTEX. The Consultative Forum's task is to promote the highest level of transparency and respect for Fundamental Rights in all FRONTEX activities.

Unfortunately, the situation on the Southern borders is not yet under control. Thousands of migrants and asylum seekers are attempting to cross the EU borders through land or sea and Member States are still facing emergencies.

The EU should be equipped with a clear welcoming strategy, which is still missing. The current architecture for migration policy has been built on the idea of defending the EU borders and to impede irregular arrivals. Too much has been spent on this purpose without clear returns. New institutions and suitable public resources are needed to increase the welcoming capacity of the EU as a whole, to improve coherence and transparency in the decisions concerning asylum requests or requests for international protection, to relocate asylum-seekers in a second Member State in based on solidarity and in respect of the rights of the migrants and their interests, to provide them with perspectives of life and work while the decision for international protection is still pending.

Concerning in particular the emergency situation in the Mediterranean Sea, the Mare Nostrum Operation, implemented by the Italian Government, showed that search and rescue can be effective and many lives can be saved². Italy was already facing great difficulties in welcoming and assisting migration flows crossing the sea and several thousand migrants are expected to arrive during the upcoming summer. Now is the time to take serious steps to share the burden between Member States in a show of solidarity. Enhanced cooperation and solidarity among member states is necessary to abandon the emergency approach and adopt a structured European Plan for management of humanitarian corridors, to ensure the transport of refugees in safe conditions, and for their hospitality and care. Only in this way can the fight against human trafficking be effective.

2

Mare Nostrum Operations started in November 2013. Frontex estimates an increase of arrivals equal to +823% in the first 4 months of 2014 (25,650 people have arrived in Sicily and 660 in Apulia, 1,257 are minors). At the end of the year arrivals will amount to 80.000. On average, 6,000 people arrive by boat each month. The Italian Government estimate that several hundred thousand people wish to leave the Libyan coasts to cross the Mediterranean Sea. In 2012, Italy received 17,352 requests of asylum. The number of refugees in Italy are 64,779, ranking 6th among the member states for presence of refugees.

Concrete proposals have been advanced in the ETUC Resolution For a More Effective Protection of Migrants and Refugees, their Lives and their Rights on the EU's Borders, with particular reference to the FRONTAID programme, and the ETUC will continue to gather political consensus to open effective discussion and negotiations with the European Commission on this.

In the abovementioned Resolution, the ETUC claimed for a brand-new welcoming policy³. Welcoming structures should be set up and run under the EU public control with the sufficient human and material resources including interpretation facilities and appropriate training on international, EU and national rules on refugee law to provide a fair, fast and accountable service. They should also provide the necessary information on workers' rights and contact details of local trade unions and free legal aid.

Chapter 4. External Dimension of Migration Policies

The GAMM (Global Approach to Migration and Mobility) sets the EU priorities in steering the external dimension of migration policies⁴. GAMM should be able to address causes of migration and refugee movements at their roots. Special attention should be paid to countries on the EU borders.

It is necessary to better analyse the role of private investments, especially of multinational companies. When locating their operations in developing countries or when recruiting staff from abroad, multinational companies often exploit gaps in wages and labour protection between developed and developing countries.

In the framework of the GAMM, the ETUC will advocate for measures for the private sector to respect corporate transparency and accountability and ILO labour standards, including the prioritisation of the local development against the immediate drawing of profits, as affirmed in the Trade Union response to the EC Roadmap on the Communication on "Strengthening the Role of the Private Sector in Achieving Inclusive and Sustainable Growth in Developing Countries"⁵.

Furthermore the GAMM should be able to re-think relationships between the richer and poorer part of the world, for a more integrated vision of global aspects of migration. Origin countries must be supported in their path toward democracy and growth based on improvement of working conditions. They should be helped to build migration laws that are respectful of human and labour rights of migrants and of the international standards for protection of asylum-seekers as they arrive or transit on their territories. In this field the trade union movement can play a role in providing support to trade unions in origin countries. The ETUC Network enhancing Assistance for Migrants provides assistance in this regard.

³ See Fourth Proposal in the ETUC Resolution for a more effective protection of migrants and refugees, their lives and their rights on the EU's borders, available on <http://www.etuc.org/documents/etuc-resolution-more-effective-protection-migrants-and-refugees-their-lives-and-their#.U3HiKPmSzbQ>

⁴ GAMM (COM(2011) 743 final) is the overarching framework for the EU external migration policy, complementary to the EU foreign policy and development cooperation. Dialogue and cooperation with non-EU countries in the context of the GAMM is based on the identification of common interests and challenges. It has evolved into focusing on four main priorities: improving the organisation of legal migration and facilitated mobility; preventing and reducing irregular migration in an efficient, yet humane way; strengthening the synergies between migration and development; strengthening international protection systems and the external dimension of asylum. In addition, respect for the rights and dignity of migrants is an essential cross-cutting dimension of this policy framework.

⁵ Available on http://www.ituc-csi.org/IMG/pdf/tu_statement_ec_roadmap_private_sector_inclusive_sustainable_growth.pdf

ETUC position on single-member private limited liability companies

Adopted at the Executive Committee Meeting of 11-12 June 2014

Summary

- The proposed SUP generates serious concerns with regard to fiscal evasion, workers' rights and sustainable corporate governance in general. If adopted, this Directive would be an open invitation to companies of all sizes to minimise their responsibilities under national law.
- Genuine SMEs, especially if they are one person-businesses, normally conduct their activities at local level. Therefore, the added value of an EU intervention for such companies is highly questionable. Furthermore, the ETUC cannot accept that the simplified rules contained in the SUP could be misused by large companies to circumvent more elaborated EU company law forms such as the European Company ('the SE').
- The ETUC rejects the SUP Directive and urges the EU institutions to work together with the social partners to find appropriate solutions for a sustainable approach to EU company law:
 - Prior to any further initiative on company law, the EU legislator must devise the appropriate rules so as to ensure that the registration place is linked to the place of main business.
 - Registration procedures must provide the necessary guarantees for verification of the identity of the company founder and its good repute.
 - Satisfactory safeguards must also be put in place to guarantee the sound financial behaviour of the company, including a substantial capital base. This is necessary to secure the necessary liability towards clients, creditors and the workforce.
- The ETUC cannot accept that workers' rights to information, consultation and board level representation are diluted or bypassed.

Position

On 9 April 2014, the European Commission published a proposal for a Directive on single-member private limited liability companies ('the SUP')¹. This initiative is a follow-up to the controversial proposal for a European Private Company Statute ('the SPE'), published in 2008 and which eventually had to be withdrawn by the Commission.

Like the SPE, the announced objective of the SUP is to facilitate business environment for SMEs, which appear to find it costly to be active across borders for reasons including the diversity of national legislations. The Directive would introduce uniform rules on formation of an SUP, registration procedure including provisions for an online registration, minimum share capital of 1 euro, and template of articles of association.

Already at the time of the SPE, the ETUC had stressed that enhancing flexibility for SMEs cannot be done to the detriment of workers' rights. The ETUC had strong concerns that the proposed SPE Statute would come across as an encouragement to

¹ COM (2014) 212 final <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1398680773110&uri=COM:2014:212:FIN>

set up letterbox companies. A number of vital improvements were therefore indispensable for the ETUC to be able to support such an initiative².

Far from addressing these shortcomings, the proposed SUP generates even more concerns with regard to circumvention of fiscal evasion, workers' rights and sustainable corporate governance in general. If adopted, this Directive would be an open invitation to companies of all sizes to minimise their responsibilities under national law.

The ETUC rejects the SUP Directive and urges the EU institutions to work together with the social partners to find appropriate solutions for a sustainable approach to EU company law.

An undemocratic initiative

The Commission conducted two broad online public consultations, then followed by meetings with business representatives. Clearly, the SUP initiative builds on a process biased towards the business world. A consultation which brings on the same footing individual company founders and an organisation representing millions of workers cannot be considered as genuinely representative.

Given the impact of the SUP on stakeholders in general and workers' rights in particular, there is no doubt that this topic is in the heart of the social policy field" as mentioned in Article 153 TFEU. European Social Partners should have been consulted in a different way, with a different weight and at an earlier stage than the wider public so as to allow them to influence the direction of the initiative to be taken.

Furthermore, the choice of the legal base raises serious questions as to the respect by the Commission of basic democratic principles. The previously proposed Regulation for SPE was based on Article 352 TFEU requiring unanimous agreement in Council, whereas the newly proposed Directive is based on Article 50 TFEU, which requires qualified majority voting. The ETUC strongly disagrees with this approach. The SUP is a direct follow-up to the SPE. Yet, rather than addressing the real roots for concerns, the Commission is trying to sidestep objections by changing the legal base.

The Commission argues that because it is a Directive, which has to be implemented by national legislation, the SUP is not a supra national legal form (which would have required Art 352TFUE as a legal base). This analysis is flawed. In theory, existing national laws on single-member private limited liability companies could co-exist with the new SUP rules. But any stricter provisions in national law would be easily bypassed by company founders to the profit of the SUP. In other words, the SUP will establish the maximum level of regulation with regard in particular to creditors' protection.

Further, although the proposed initiative takes the form of a Directive, uniform rules on a series of key company law elements would be introduced (formation of an SUP, registration procedure including provisions for an online registration, minimum share capital, and template of articles of association). Worryingly some of these uniform rules will be left to comitology, outside any kind of democratic scrutiny by the EU legislator. For instance, rules relating to matters as important as capital reduction or accounts will be decided on unilaterally by the Commission. The ETUC is deeply concerned by this undemocratic approach, and urges the European Parliament, the only directly elected institution, to stand up for its prerogatives as a co-legislator.

A real need?

² http://www.etuc.org/sites/www.etuc.org/files/11-EN-ETUC_Position_on_a_EPCS_Resolution_En_1_2.pdf

The ETUC has strong doubts on whether it is necessary to create a supranational form for SUPs. Genuine SMEs, especially if they are one person-businesses, normally conduct their activities at local level. The added value of an EU initiative on SUPs is highly questionable for such businesses, and the ETUC is concerned about the respect of the subsidiarity principle. For the SUP form to have concrete impact, it would have to be used by larger businesses to the detriment of more elaborated EU company law forms such as the European Company ('the SE'). In other words, the SUP Directive would weaken the historic compromise reached in the SE legislation, in particular with regard to the provisions on workers' rights.

An encouragement to use letterbox companies

The proposed SUP Directive expressly allows the SUP to locate its registered office in a different Member State than the central administration. In fact, the company founder is free to locate the registered office in the Member State of its choice. This situation is not new but would be considerably worsened by an EU initiative transforming registration procedures into a simple formality. Under the SUP, the rules relating to registration are significantly simplified, including in particular rules for online registration. The registration process is entirely dematerialised and provides no safeguard to verify the identity and good repute of the company founder.

The choice of the registration place is an important step in the life of a company as it determines the main national regime applicable to the company. This has implication in particular for tax. Unrestricted freedom to pick and choose the place of registered seat facilitates fiscal evasion. In the field of social security coordination, there is also a risk of circumvention of mandatory contributions by the employer.

Also, the proposed SUP contains no safeguard to prevent larger companies to misuse this company form. Larger companies will be encouraged to artificially modify their corporate structure with a view to minimise their obligations under the normally applicable national law. A company employing a significant number of workers in a Member State with elaborated legislation on information, consultation and workers' board level participation could easily "transfer" the ownership of some of its activities to a subsidiary established as an SUP in a more lenient Member State, thereby circumventing the applicable obligations in the Member State where the business is actually carried out.

The way forward – key elements to a sustainable company law model

Prior to any further initiative on company law, the EU must urgently solve the problem of letter box companies established for the purpose of fiscal optimisation and circumvention of workers' rights. The ETUC considers that the 'real seat' principle must become a core principle of EU company law. The ETUC therefore urges the EU legislator to devise the appropriate rules so as to ensure that the registration place is linked to the place of main business.

Further, registration procedures must provide the necessary guarantees for verification of the identity of the company founder and its good repute.

Satisfactory safeguards must also be put in place to guarantee the sound financial behaviour of the company. In particular, a substantial capital base can provide a basic level of protection for workers and other stakeholders when companies run into financial difficulties. The ETUC rejects the 1euro minimum capital requirement contained in the SUP proposal. Combined with a simplistic online registration procedure, the 1 Euro minimum capital requirement is an open invitation to fiscal and social dumping. It must also be noted that the SUP proposal contains almost no guarantee in case of bankruptcy towards clients, workers and creditors.

Last but not least, the ETUC cannot accept that workers' rights to information, consultation and board level representation are diluted or bypassed, as would be the case with the SUP. Every new EU company law initiative must imperatively contain provisions on workers' involvement, at least on the same level as those contained in the SE Directive. In the longer term, what would make discussion on European company legislation much easier would be a legal framework on workers' information, consultation and board-level representation that applied to all such proposals.

POSITION DE LA CES SUR L'AVENIR DES PENSIONS DE RETRAITE EN EUROPE DEUX ANS APRES LE LIVRE BLANC SUR LES RETRAITES

Adoptée par la Réunion du comité exécutif des 11-12 juin 2014

Introduction

Messages-clés

- Les droits à pension de retraite s'acquièrent sur plusieurs dizaines d'années de travail reflétant ainsi les niveaux de rémunération, les périodes de chômage et les conditions de travail de façon générale.
- Les pensions, y compris l'âge de la retraite, relèvent de la compétence nationale.
- Reporter l'âge effectif de la retraite devrait faire partie d'un effort à assurer une vie active harmonieuse pour tous : santé et sécurité au travail, conditions de travail décentes, accès à l'éducation et à la formation tout au long de la vie et contrats d'emploi de qualité ouvrant des droits à pension.
- Nous admettons qu'une augmentation de l'espérance de vie doit impliquer un report de l'âge effectif de la retraite, toutefois l'âge légal de la retraite ne doit pas être automatiquement lié à l'espérance de vie moyenne. L'exposition à des conditions de travail pénibles doit être prise en compte.
- Les pensions de retraite du régime légal (dites 'du premier pilier') applicables à tous doivent être augmentées par un financement public s'appuyant sur la solidarité entre groupes et entre générations. Les pensions professionnelles complémentaires (dites 'du deuxième pilier') basées sur la négociation collective doivent être favorisées. L'épargne-retraite privée (dite 'du troisième pilier') ne doit pas être considérée comme alternative aux pensions de retraite des premier et deuxième piliers.

Les pensions de retraite sont le reflet des conditions de toute la vie active

Les systèmes de retraite entraînent des obligations à long terme. Les règles en la matière doivent être stables et fiables. Les pensions de retraite s'appuient sur des promesses entre groupes de personnes et sur la solidarité intergénérationnelle. Les systèmes de retraite doivent être durables sur une longue période afin de pouvoir tenir ces promesses et garantir les besoins économiques des gens après leur vie active.

Aujourd'hui, les réformes des retraites sont couramment évoquées dans le débat politique européen. L'élaboration des régimes publics de retraite relève de la compétence nationale. Toutefois, au titre du semestre européen, la Commission et le Conseil font des recommandations portant sur la stabilité macroéconomique et encourageant une saine gestion des finances publiques en général. Les retraites constituent une part importante du budget de tous les états et sont donc une cible tentante pour des recommandations politiques. En 2012 et 2013, la majorité des États membres de l'UE ont reçu des recommandations par pays concernant des réformes des retraites. Celles-ci visaient principalement l'âge légal de la retraite et suggéraient qu'il soit lié à l'augmentation de l'espérance de vie ou que les possibilités de retraite anticipée soient limitées.

La CES soutient l'idée qu'il faut établir un équilibre entre temps consacré au travail et durée de la retraite mais elle est absolument contre l'idée que cet objectif soit atteint par un simple relèvement de l'âge légal de la retraite ou par un ajustement automatique de

l'âge légal de la retraite en fonction de l'espérance de vie. Il faut surtout que l'allongement de la durée de la retraite (dû à l'allongement de la durée de vie) soit compensé par une amélioration de l'intégration dans le marché du travail de toutes les personnes en âge de travailler. Pour 2013, les chiffres d'Eurostat relèvent un taux d'emploi, y compris l'emploi marginal, de seulement 68% pour la tranche d'âge de 20 à 64 ans. Ceci montre à l'évidence qu'il existe un énorme potentiel d'augmentation du temps consacré au travail et que cela ne concerne pas uniquement les aînés. Augmenter l'emploi pour les groupes qui affichent des taux plus bas, tels que les femmes, les migrants et les jeunes, améliorerait de manière significative le rapport entre le temps consacré au travail et la durée de la retraite.

Déterminer l'âge légal de la retraite est essentiel dans toutes les sociétés. La CES rejette l'idée que les parlements nationaux abandonnent leurs compétences en matière de réglementation au profit de formules mathématiques basées sur des critères tels que l'espérance de vie.

Un débat et une décision politiques sont nécessaires avant de modifier l'âge légal de la retraite. Un tel processus doit impliquer les partenaires sociaux au niveau national. L'âge de la retraite et les pensions de retraite sont étroitement liés aux conditions de vie active et donc au dialogue social.

Les retraites renvoient l'image de dizaines d'années d'expérience de vie active et d'évolution de la situation du marché du travail. Le chômage n'est pas un choix personnel, pas plus que les heures à temps partiel qui ne suffisent pas à payer les factures. Le travail à temps partiel dû au manque d'infrastructures d'accueil pour les enfants et d'autres membres de la famille à charge ne doit pas être considéré comme un choix personnel et ne doit pas non plus être sanctionné par une faible pension de retraite. Les personnes qui sont tombées malades ou qui ont connu le chômage à la fin de leur vie active doivent avoir droit aux allocations sociales jusqu'à l'âge de la retraite. En période de difficultés économiques et de dérégulation des conditions de travail, différentes formes de contrats d'emploi précaire et de stages se multiplient et donnent lieu à peu de droits à pension, voire aucun. La CES exige des contrats d'emploi décent ouvrant des droits à pension.

Une vie active plus longue doit se concrétiser au travers de mesures actives sur le marché de l'emploi, de meilleures conditions de travail accompagnées de politiques en faveur de l'éducation et de la formation ainsi que de la mise à disposition d'infrastructures d'accueil. Sans celles-ci, le concept d'allongement du temps de travail relève de la pure rhétorique dans la vie de nombreuses personnes.

L'évolution démographique est souvent avancée comme raison justifiant l'obligation de repousser l'âge légal de la retraite puisque moins de personnes en âge de travailler devront soutenir un plus grand nombre de retraités. Alors qu'un nombre important de citoyens européens sont sans emploi, la CES souligne qu'il serait plus logique de considérer le rapport de dépendance économique qui correspond au rapport entre le nombre de personnes actives et le nombre de celles qui ne travaillent pas, quel que soit leur âge. Cela conduit à mettre l'accent sur la promotion d'une plus large participation au marché du travail et sur la création d'emplois de qualité.

Des chiffres démographiques mal interprétés axés sur la relation numérique entre les groupes d'âge prévalent toujours dans le débat public sur la soutenabilité des systèmes publics de retraite. Des faits tels le chômage ou l'inactivité pour raisons de santé ou familiales sont tout simplement ignorés. Malheureusement, jusqu'à présent, la définition du Livre blanc du rapport de dépendance économique n'a pas été mise en évidence dans les projections à long terme de la Commission.

La CES continue de s'interroger sur la question de savoir dans quelle mesure le vieillissement de la population se traduira par une augmentation du rapport de dépendance économique. Selon nous, c'est en grande partie déterminé par l'évolution du marché du travail. Relever le taux d'emploi, par des emplois de qualité, pourrait

contribuer à considérablement réduire la future augmentation de ce rapport et, de ce fait, réduire également la charge financière du vieillissement.

L'adéquation est un aspect des pensions qui demande davantage d'intérêt public. Aujourd'hui, la pension de retraite constitue la principale source de revenus pour un quart des citoyens européens. Ils n'ont que peu d'autres possibilités de trouver d'autres sources de revenus. Les allocations doivent dès lors être telles qu'elles puissent garantir un niveau de vie décent. L'indexation des pensions doit également être adéquate. Une perte annuelle de pouvoir d'achat finira par représenter une somme importante pour ceux qui vivent plus longtemps.

Il existe des disparités choquantes entre les pensions des hommes et des femmes. Alors que l'écart salarial entre hommes et femmes en âge de travailler est d'environ 16% pour l'UE, l'écart entre les sexes en matière de pensions de retraite monte à 39%. Cela peut, dans une large mesure, s'expliquer par les inégalités au niveau des schémas vie professionnelle/vie privée, les attitudes vis-à-vis du travail féminin et la manière dont sont élaborés les régimes de retraite. La CES défend le principe « à travail égal, salaire égal » mais également « pension égale ».

La pauvreté touchant les personnes âgées est un vrai problème aujourd'hui. Malheureusement, il va même s'aggraver à l'avenir alors que les conséquences des années de crise et des mini-jobs sans droits à pension se font à nouveau sentir sous forme de faibles pensions. La CES rappelle donc une nouvelle fois la nécessité d'emplois de qualité assortis de conditions de travail décentes ainsi que de droits à pension et d'autres droits en matière de sécurité sociale. De plus, les pensions du premier pilier doivent fournir un niveau de vie adéquat et protéger les personnes âgées de la pauvreté.

Plus et de meilleures informations sur les pensions s'imposent. Le paysage des pensions de retraite étant devenu plus diversifié, l'impact de décisions individuelles est devenu plus important. Les gens ont besoin d'informations claires et fiables concernant leurs droits à pension ainsi qu'un aperçu de la manière dont fonctionnent les différentes composantes des systèmes de retraite afin d'être en mesure de prendre des décisions en connaissance de cause. Les pensions dépendant des conditions de vie active antérieure, des informations périodiques sur l'état des droits à pension acquis ainsi que sur la manière dont les différents choix peuvent affecter les droits à pension sont importantes.

Commentaires sur les pensions de retraite du premier pilier

Les systèmes de retraite légale, encore appelés pensions du premier pilier, représentent la source principale des pensions pour une large majorité des retraités. On dit souvent que celles-ci ne seront pas soutenables du fait du manque de moyens financiers. La réaction syndicale à une telle affirmation doit être que, si tel est le cas, davantage de moyens doivent être affectés pour tenir compte du vieillissement de la population. S'il n'y a pas suffisamment d'argent pour le premier pilier, qui couvre tout le monde et auquel tout le monde contribue, comment des régimes complémentaires pourraient-ils être une meilleure solution ?

La meilleure façon de garantir des niveaux de prestations de retraite adéquats pour tous est de renforcer les pensions du premier pilier. La CES plaide pour que les pensions du premier pilier assurent des taux de remplacement permettant aux personnes de maintenir un niveau de vie décent durant leurs vieilles années également.

Les pensions du premier pilier permettent une redistribution au sein même du système. Elles représentent quelque chose de plus qu'un compte privé en ce qu'elles constituent un système de mise en commun des risques et de partage des coûts. Les pensions du premier pilier sont basées sur la solidarité et se prêtent à une redistribution équitable.

Dans certains pays, les emplois pénibles sont liés à des régimes de retraite anticipée. Définir ce que sont les emplois pénibles doit se faire en consultation avec les partenaires sociaux. Ceux-ci connaissent les conditions de travail des professions ou des secteurs

concernés, ainsi que les inégalités sociales auxquelles les travailleurs sont exposés, en termes d'éducation et de formation.

Commentaires sur les pensions de retraite du deuxième pilier

Les régimes de retraite professionnels font souvent partie de la négociation collective. La CES soutient les régimes de retraite complémentaire négociés collectivement.

En mars, la Commission a présenté sa très attendue proposition pour une refonte de la directive concernant les activités et la surveillance des institutions de retraite professionnelle (IRP). La CES soutient que les prestations en matière de pensions professionnelles relèvent du droit social et du droit du travail et non d'une question de marché intérieur. Les pensions professionnelles font partie de la rémunération que les travailleurs perçoivent pour leur labeur. Les pensions professionnelles ne sont pas obligatoires mais sont souvent basées sur des conventions collectives. Près de la moitié des travailleurs bénéficient d'une pension professionnelle dans l'UE.

La proposition IRP met fortement l'accent sur le marché intérieur et la dimension transfrontalière. Cependant, les pensions professionnelles ont surtout cours dans un contexte vraiment national. Elles complètent les pensions du premier pilier, elles sont réglementées par la législation fiscale nationale et sont souvent basées sur des conventions collectives concernant les rémunérations. Les régimes transfrontaliers et les prestations transfrontalières en matière de pensions professionnelles peuvent se justifier là où une telle construction apporte une valeur ajoutée mais c'est loin d'être une manière courante d'organiser les pensions professionnelles.

S'agissant des régimes professionnels transfrontaliers, les propositions IRP reposent sur l'idée de favoriser la libre circulation transfrontalière pour les prestations de services financiers. Si des régimes de pension transfrontaliers doivent être développés, ce développement doit être fondé sur les besoins des entreprises et de leurs employés et non sur ceux de l'industrie financière qui veut tirer profit d'offres de prestations de services par-delà les frontières.

Les pensions professionnelles ne sont pas des produits qu'on peut offrir et fournir n'importe où, sans aucun lien ou connaissance du contexte en matière de rémunérations et de règlement du travail au plan national, sectoriel et parfois même de l'entreprise. La CES continuera à s'impliquer activement dans l'exercice de refonte.

La Directive 2014/50/UE sur l'acquisition et la préservation des droits à pension complémentaire vise à accroître la mobilité des travailleurs en renforçant leurs droits dans ce domaine. La CES est favorable au but poursuivi, à savoir sauvegarder les droits à pension complémentaire des travailleurs, mais elle estime qu'il existe de meilleurs moyens de l'atteindre que ceux proposés dans cette nouvelle directive. Pour commencer, il est important de rappeler que les pensions complémentaires ne sont pas obligatoires et sont souvent basées sur des conventions collectives. Il faut dès lors que la législation en la matière respecte le rôle des partenaires sociaux.

La CES regrette que la définition de travailleur sortant, qui est la personne concernée par les droits couverts par cette directive, ne porte que sur les travailleurs mobiles transfrontaliers et omette les travailleurs qui changent de travail et de régime de pension complémentaire tout en restant dans le même pays.

La directive autorise toujours des délais d'attente relativement longs au cours desquels les cotisations versées par l'employeur ne reviennent pas au travailleur s'il quitte son emploi.

La protection des droits à pension dormants, y compris leur valorisation équitable, est un élément important de la directive. La CES souhaite qu'elle soit renforcée. La directive donne cependant la possibilité aux gestionnaires des régimes de pension de ne pas préserver les droits dormants ne dépassant pas certains seuils (ces seuils doivent être

définis dans le droit national) mais de les payer sous forme de capital au travailleur sortant. Cela peut sembler positif mais comporte malgré tout des problèmes puisque les faibles droits à pension concernent surtout les jeunes travailleurs et, parmi ceux-ci, les travailleurs sous contrat temporaire. Le paiement d'un capital peut entraîner des pertes pour les travailleurs. Généralement, les gestionnaires comptent des frais pour ces transactions qui peuvent être soumises à des taxes élevées. Un autre désavantage du paiement de capital, au lieu de la préservation des droits dormants, est que, le jour de leur départ à la retraite, les travailleurs se retrouvent sans aucune pension complémentaire puisqu'ils auront déjà reçu leurs droits acquis sous forme de montants plus modestes au cours de leur vie active.

La CES soutient les dispositions de la directive relatives à l'information des travailleurs en matière de droits à pension et sur la manière dont ces derniers sont affectés par la mobilité.

La CES insiste vivement auprès des États membres pour qu'ils impliquent activement les syndicats et les organisations patronales dans la transposition de la directive dans le droit national.

Commentaires sur les pensions de retraite du troisième pilier

L'épargne privée n'empêchera jamais la pauvreté. L'épargne privée en vue de s'assurer une meilleure retraite n'est possible que pour ceux qui peuvent se le permettre et non pour ceux qui en auraient le plus besoin. Les produits du troisième pilier ne pourront jamais compenser l'insuffisance des prestations de retraite du premier pilier. Nombre de ces produits, présentés comme épargne de retraite ou épargne-pension, peuvent être liquidés avant d'avoir pris sa retraite ou payés sous forme de capital ou pour un nombre d'années très limité. Ils sont donc loin de constituer un revenu supplémentaire pour un nombre d'années indéterminé.

An ETUC toolbox for fair competition - orientation paper

Discussed at the Executive Committee, 11-12 June 2014

Summary

EU labour law is a core element of social Europe. Given the limited progress that has been achieved in the social field this decade, the task is enormous for the next Commission and European Parliament to put Europe back on the right track.

The aim of this orientation paper is to set a frame for ETUC work to combat unfair competition in the internal market. The ETUC will hold a series of internal discussions to shape a forward-looking agenda for the next mandate of the Commission and European Parliament. A number of proposals will be elaborated, including:

- how to ensure that the EU legislator lives up to the social objectives contained in the Treaties
- how to ensure the respect of international social standards by EU law itself
- how to foster an EU approach to fundamental rights, having regard in particular to freedom of association, collective bargaining and collective action, including the right to strike
- how equal treatment can be repositioned as a key principle of free movement
- how to secure enforcement of labour law, including protection of all forms of dependent employment and the creation of an enforceable EU obligation to carry out effective checks and controls
- how to eradicate letterbox companies, where they are established to evade the applicable legal and fiscal obligations
- an EU legislation on subcontracting, including in particular standards for a mandatory liability mechanism and transparency requirements

Introduction

EU labour law is a core element of social Europe. It is embedded in the framework of the social values and objectives enshrined in the Treaties as well as in the context of the fundamental rights provided for in the legally binding EU Charter of Fundamental Rights. Article 9 TFEU compels the Union to take into account key social requirements such as adequate social protection and the fight against social exclusion, in the definition and implementation of its policies and activities. Article 151 TFEU lays down the social objectives that the Union and the Member States should pursue. In the words of the Commission itself, “the EU institutions must go further than merely respecting the legal requirements following from the Charter. They must continue fulfilling the political task of promoting a fundamental rights culture for all, citizens, economic actors and public authorities alike”¹.

Yet, very limited social progress has been achieved this decade. Austerity measures have led to dramatic attacks on labour standards². The Commission, which has the right of initiative for EU law, has for the past two mandates been focusing on deregulation rather than the strengthening of EU labour law. Commission consultations openly question the whole area of employment and social legislation (e.g. Top Ten and

¹ COM (2014) 224 final « 2013 Report on the Application of the EU Charter of Fundamental Rights”

² See study Prof. Dr. Andreas Fischer-Lescano, Human Rights in Times of Austerity Policy - The EU institutions and the conclusion of Memoranda of Understanding http://www.etuc.org/sites/www.etuc.org/files/press-release/files/legal_opinion_human_rights_in_times_of_austerity_policy_final.pdf

Tourism businesses), and REFIT is a threat not only to existing labour legislation but also future legislation.

This inertia from the EU legislator plays into the hands of judge-made law. The legal problem highlighted in the Viking, Laval, Ruffert and Luxembourg rulings lies in the fact that contrary to economic freedoms (free movement of capital, services, workers and freedom of establishment), the social dimension in the EU Treaties is a complex mechanism, reflecting both the desire to develop a European social sphere as well as the need to preserve Member States' social acquis. The 'social activities' of the Union consist in a repartition of tasks between the Union and the Member States. This contrasts with the apparent simplicity of the provisions relating to economic freedoms, which constitute an exclusive competence of the Union.

According to the "negative integration" approach, restrictions to free movement arising from national law or practice are as a principle prohibited and can only be justified in limited circumstances. Following that logic, the difference of national labour standards became an obstacle to free movement in the eyes of the Court of Justice. The very existence of national labour law must be justified, even if it is not discriminatory nor protectionist in nature.

In short, in the absence of express choices by the EU legislator, economic freedoms take precedence over the social dimension.

At the Athens Congress, the ETUC and affiliates reaffirmed their decision "to resist the temptation of resorting to national introspection, which would be, wrongly, considered as constituting the best way of protecting living and working conditions"³.

This orientation paper sets the frame for ETUC work to foster fair competition in the single market. The aim is to launch a series of internal discussions to shape a forward-looking agenda for the next mandate of the Commission and European Parliament. This work will also help the Secretariat in the preparation of the ETUC Congress in 2015. This non exhaustive paper focusses on what "an anti-social dumping toolbox" could look like. But in order to revive EU labour law, there is also a need to develop new social legislation responding to actual and future needs for better protection of workers.

Measures to fight social dumping would be made around three main pillars:

- Rebalancing the priorities of the Union towards a more social approach
- Securing protection of labour law to all forms of employment
- Tackling irresponsible corporate behaviour

Economic vs social – rebalancing the EU approach

The ETUC's first and main response to the threat caused by the ECJ rulings has been to call for a Social Progress Protocol to be annexed to the Treaties and for a revised Posting of Workers Directive. The Social Progress Protocol aims at clarifying at the level of the Treaties that the internal market is not an end in itself but should serve social progress, and that fundamental social rights have priority over economic considerations. This Protocol would go a long way towards protecting workers against judge-made law. Its adoption is a priority for the ETUC. Furthermore, additional measures, including actual Treaty change, should be discussed.

The Union lacks a Constitutional dimension according to which EU legal activities can only develop within a wider fundamental rights framework. The planned EU ratification of the European Convention on Human Rights (ECHR) creates hope in this regard, but

³ Point 4.2 of Congress document

an extremely long and complex ratification process raises questions as to the likelihood of a direct ECHR influence within the foreseeable future. A related problem is the insufficient influence of the EU Charter of Fundamental Rights to correct the supremacy of economic freedoms over social provisions. As a result, in applying EU law Member States find themselves in breach of international commitments, such as ILO Conventions and the revised European Social Charter.

The ETUC and its affiliates will reflect on how to ensure the respect of international standards by EU law itself. In particular, we will look at ways to increase the influence of the revised European Social Charter and the ILO. We will also undertake reflection on how to secure and promote an EU approach to fundamental rights, having regard in particular to freedom of association, collective bargaining and collective action, including the right to strike. The rights to form a trade union and to collective bargaining must indeed be upheld throughout the Union.

Another issue is how to promote the principle of equal treatment in the internal market. Free movement in the Union is governed by a country of origin principle, to a certain extent nuanced by the provisions of the Posting of Workers Directive. The ETUC and its affiliates will discuss how the host country principle can be repositioned as a key principle in particular in a context of transnational provision of services.

Securing protection of labour law to all forms of employment

For the ETUC, the normal form of employment is full-time (or chosen part-time), permanent and direct employment. Yet, an increasing number of workers are forced into atypical work. For certain types of atypical work, a non-discrimination obligation normally applies (e.g. the EU Directives on part time work, fixed term work, and temporary work agencies). But for other contract forms, the worker is unjustly excluded from the protection of labour law, and health and safety protection. This would be the case where an employment relationship is disguised into a civil/ commercial law arrangement (e.g. fake self-employed). Other atypical contracts take the form of zero hours contracts where the worker works only when requested by the employer and there is no contractual obligation to offer a specific amount of work, workers on a very small number of hours, apprentices etc.

In a context of increasing cross-border provision of services, the issue of atypical work and bogus self-employment can no longer be addressed efficiently at national level only. The ETUC and its affiliates will reflect on how to secure protection of labour law to all forms of dependent employment and to create an enforceable EU obligation to carry out effective checks and controls. This should be an obligation of result, i.e. the means should be left to national traditions as long as the overall objective of more and better controls is fulfilled.

Tackling irresponsible corporate behaviour

A letterbox company is a company which has elected its domicile in a Member State while conducting its real activities in another Member State. The purpose of such an artificial construction is cost cutting via tax avoidance, lower labour standards and social security fraud. The current EU attitude towards letterbox companies is ambivalent. In the road transport sector, letterbox companies are as a principle prohibited⁴. It seems, however, that neither the Member States nor the Commission make sustained effort to enforce the law. In Article 3 of the recently adopted Enforcement Directive of the Posting of Workers Directive, Member States are under the obligation to check that the employer is not a letterbox company.

⁴ Article 5 Regulation 1071/2009

However, little is foreseen for the actual implementation of that Article. Finally, in company law, the Commission regularly proposes instruments facilitating the split between registration seat and administrative seat, officially to encourage free movement of companies. For instance, the recent proposal for a single-member private limited liability company is an open invitation to companies of all sizes to minimise their responsibilities under national law and to dilute workers' rights to information, consultation and board level representation.

In the absence of a clear choice by the EU legislator, the split of seats is not a problem for the ECJ⁵. The EU legislator must devise the appropriate rules so as to ensure that the registration place is linked to the main place of business.

The ETUC and its affiliates will discuss proposals to eradicate letterbox companies, where they are established to evade the applicable legal and fiscal obligations. The ETUC is currently submitting a project application to the Commission. The objective of this 24 months project is firstly, to gather data and concrete case studies, and secondly to hold expert discussions with a view to develop policy recommendations.

There is also growing recognition at EU level that long subcontracting chains are problematic for the enforcement of labour law obligations. The need for national joint & several liability mechanisms is acknowledged in the forthcoming Enforcement Directive of the Posting of Workers Directive and in the revised public procurement Directive. However, these two texts do not impose any obligation, and in the case of the Enforcement Directive also encourage Member State to look at alternative – and possibly weaker - options. It is very likely that the ECJ would consider that any mechanism going beyond EU recognized standards would have to be justified, necessary and proportionate.

The ETUC and its affiliates will discuss proposals for an EU legislation on subcontracting, including in particular standards for a mandatory liability mechanism and transparency requirements. Furthermore, the non-discrimination clauses contained in ILO Convention C94 on labour clauses in public contracts should serve as an inspiration for an EU initiative on subcontracting.

Conclusion: next steps

In depth discussions on the above will be conducted in the ETUC Working Group on Labour and Internal Market legislation. On the basis of these discussions, the ETUC Secretariat will develop a series of proposals to be adopted by the Executive Committee in due course.

To facilitate lobbying work towards the new European Parliament and Commission, with a view to influence their new agenda, a leaflet laying down ETUC demands will be put together.

⁵ <http://www.worker-participation.eu/Company-Law-and-CG/ECJ-Case-Law>

ETUC Resolution towards a mid-term evaluation of the Europe 2020 strategy

Adopted at the Executive Committee 11-12 March 2014

Introduction

In the very beginning, the Europe 2020 strategy, like its predecessor the Lisbon Strategy, relied on instruments which were not efficient, in particular, the open method of coordination. Then economic governance structures were established to better coordinate economic policies, and Europe 2020 had to fit into this new governance architecture, which was not conceived to help it reach Europe 2020 (namely employment or social) objectives.

Europe 2020 is not on the same footing as the procedures of the European Semester and the Annual Growth Survey (AGS). Furthermore, the goals of Europe 2020 and the five priorities of the Semester (fiscal consolidation, restoring lending, promoting growth and competitiveness, tackling unemployment and social consequences, modernising public administration) are neither identical nor coherent.¹ The Commission underscores that „the order of this list does not reflect a hierarchy of priorities“, but is proud of the “substantial progress made on fiscal consolidation”: “Progress in fiscal consolidation is visible over time”, “the process of consolidation is noticeable at country level” etc. (AGS 2014). In terms of priorities linked to a corrective policy, there are some doubts, as the first priority “fiscal consolidation” is the only one linked to corrective measures.

Comparing the AGS and Europe 2020 shows that these two strategies head in opposite directions: The AGS underscores that “some important progress has already been achieved” through REFIT and the Commission announces an “annual REFIT scoreboard” to simplify the business environment and reduce red tape. The ETUC underscores that no important progress has been achieved on the Europe 2020 objectives.

The goals of Europe 2020 are clearly subordinate to the economic goals of the European Semester. The Commission pretends that the “framework has started to deliver results” but this cannot be said of the Europe 2020 goals. The policies of the European Semester might be appropriate for attaining its goals, but not the 2020 goals. For instance, austerity is a policy which may be appropriate for enforcing fiscal consolidation – but the austerity policy has counterproductive and negative effects on innovation, research and development, on the alleviation of poverty, employment, and climate change, and is in fact, a hindrance.

On the contrary, one could say that the current economic governance architecture diminishes the capacity to reach the goals. How might structural reforms, decimated public services, or budget consolidation, help for instance to increase the R&D budget? While hundreds of billions have been poured into bailout funds since the start of the financial crisis in 2008, no substantive increase in R&D is discernible. It can be concluded that the new governance architecture will not help, but rather hinder, the realisation of the Europe 2020 goals. And some European policies, as the strategy for equality between women and men are completely overlooked and ignored by Europe 2020.

¹ “five key targets have been set for the EU to achieve by the end of the decade... employment; education; research and innovation; social inclusion and poverty reduction; and climate/energy. The strategy also includes seven ‘flagship initiatives’ ... supporting the Europe 2020 priorities such as innovation, the digital economy, employment, youth, industrial policy, poverty, and resource efficiency.”

On unemployment, the AGS 2014 concedes that the rates “remain historically high”, “leading to growing divergence in employment and social outcomes”. Mass unemployment is increasing with already 26 million Europeans unemployed, with youth unemployment figures ranging alarmingly high in many Member States, and the risk of poverty increasing with 120 million Europeans living in or at risk of poverty. The social impact of the crisis is immense; the economic and financial crisis is creating conditions for a widespread social crisis with a growing gap in the distribution of resources. There is growing evidence that the crisis is having a disproportionate impact on women who were already disadvantaged on the labour market and at greater risk of poverty and social exclusion. The recent development of economic governance has increased disequilibrium and social imbalances.

Towards a new approach to Europe 2020

In view of the mid-term review of Europe 2020 scheduled for 2015 several options are available:

- add more indicators and a scoreboard and continue to ask the Commission to make the goals binding; or go further and;
- link Europe 2020 to new tools and put Europe 2020 on the same binding level as economic governance; or
- abandon the Europe 2020 strategy and ask for a more efficient instrument together with an ambitious social policy agenda.

In order to transform Europe 2020 into a success story, first and foremost, the austerity policy has to end and a second, more appropriate policy in favour of employment, research and innovation, education, the alleviation of poverty and against climate change has to be designed. The European Semester gives the main priority to fiscal consolidation and does not have a positive effect on the 2020 goals.

Interestingly, the language of the Commission has shifted recently. While there are still the 5 targets and 7 flagship initiatives² to achieve Europe 2020, the instrument is no longer the open method of coordination, but the new economic governance structures which are presented as having been put in place to achieve the 2020 objectives. The delivery of Europe 2020 seems to depend on economic governance, but the latter looks more like a pill to swallow. “The delivery of Europe 2020 relies heavily on the new governance structures and processes that the EU has been putting in place since 2010. At the heart of these is the European Semester, (...) reform commitments by the Member States and country-specific recommendations”³. Here we are entering a circle with a snake who bites its own tail. Europe 2020 is presented as containing the objective of the new economic governance structure. But part of this new governance structure are austerity and fiscal consolidation policies which impede the capacities of the Member States to reach the objectives.

The solution advocated by the Commission is to add some additional indicators and a scoreboard so that in the end the delivery will be complete and encompassing. “By helping to detect key employment and social challenges in the EU, and to ensure a timely policy response, the scoreboard would also help with meeting the Europe 2020 targets. (...) The ultimate aim of these comprehensive tools is to identify and commonly agree on a set of key labour market and social challenges that Member States face on their progress towards the Europe 2020 objectives. The scoreboard would not represent a re-statement of the Europe 2020 policy ambition, but would rather aim to detect developments in the socioeconomic situation across the EU that require closer monitoring. Its purpose and character would be complementary to those of these monitoring tools.”

² http://ec.europa.eu/europe2020/europe-2020-in-a-nutshell/index_en.htm

³

In other words, the scoreboard would help to identify key challenges (like the well-known need for labour market reforms, flexibility etc. pp.). However, nothing seems to be foreseen which could complement the old and new indicators with a system triggering preventive and corrective actions in order to deliver on the Europe 2020 goals. Adding more indicators to the already existing ones might improve the knowledge base and the analysis of trends across Europe, but has no immediate corrective effect, so will not be able to alter economic policy.

Europe 2020 - towards new tools to deliver

The ETUC is now at a crossroads – either to defend the old approach to Europe 2020 based on OMC and the de facto subordination under the economic governance procedures, or use the opportunity to redefine the rules for Europe 2020. The discrepancy between the ambitious employment target and dramatically high unemployment must be tackled urgently and not diluted in an unspecific long term approach. A lost generation must be avoided at any price.

The Europe 2020 targets must be anchored in a new architecture of social and economic governance on an equal footing with the economic goals, together with an ambitious social agenda.

- The Commission has to monitor from within the economic governance structure;
- that the reports from the Member States follow the Europe 2020 goals
- and has to take them up in the country specific recommendations.

If this tool is not sufficient to steer it in the right direction of convergence, approximation and real progress towards the 2020 goals, the Commission should propose more ambitious incentives to reach the Europe 2020 employment and social goals.

The ETUC can continue to support the Europe 2020 goals under the following conditions:

- the Commission incorporates the 2020 goals into a new architecture of social and economic governance, in particular the European Semester, taking them into account in the AGS and the CSR but on an equal footing, and not subordinated, to economic and fiscal goals;
- the social and employment indicators should be linked to regular (yearly) decisions on preventive and corrective measures to achieve the objectives – for instance a budget increase to reach the 3% R&D, specific measures and investments to increase high quality employment, etc.

Once these conditions are fulfilled a new potential beyond the outdated and partially failed approach can be developed. The ETUC is ready to participate in the process of re-determining the rules in a new pro-active approach which is necessary right now and which cannot wait for the mid-term review in 2015.

In many Member States the participation of social partners continues to be rather formal or insufficient. The ETUC reiterates its demand⁴ that the involvement of the social partners needs to be organised in a serious way and systematically, as well at European and national level, and that trade union suggestions are taken into account.

⁴ ETUC position on Europe 2020 Strategy – an Assessment. Adopted at the Meeting of 5-6 March: 2013 http://www.etuc.org/sites/www.etuc.org/files/EN-ETUC_Position_on_Europe_2020_Strategy_-_an_Assessment_2.pdf

Annex

Towards mid-term evaluation of the strategy Europe 2020

Previous ETUC Statements on Europe 2020

The ETUC analysed the situation in March 2013 and came to the following conclusions: “when Europe 2020 was presented, the expectations were high but a first assessment shows that the actors involved have been unable to keep their promises. The majority of affiliates agree that the Europe 2020 strategy is not efficient, as the objectives are not really treated as binding, or as obligatory in the same way as other criteria (e.g. austerity, deficit criteria etc.). The instruments, in particular the flagship initiatives, are being considered as not very or only partly effective in achieving the objectives, some even consider the strategy as purely symbolic policymaking.”⁵

The ETUC sounded a pessimistic note on the future outlook for the Europe 2020 strategy: “due to the supremacy of economic objectives and neoliberalism in general, to the encouragement of flexicurity, the majority of affiliates don’t believe that the Europe 2020 strategy will, in the end, deliver its objectives.” As the main reason for this realistic view the new economic governance structure was identified: “In fact, the new governance framework institutionalises a structural bias towards the domination of economic over social governance; the Europe 2020 being subsumed into the European Semester. At best, the objectives are conceived as aiming at balancing or cushioning the social consequences of the austerity policy.” The structural bias towards the subordination of social policy and Europe 2020 goals was institutionalised in the new governance structure. Therefore, the ETUC Executive Committee concluded: “the conclusion can be drawn that a radical policy change is necessary to stop the antisocial bias of European policy. ... Therefore, the ETUC demands that: the Europe 2020 objectives are incorporated into the framework of an alternative and more balanced economic governance structure.”

Europe 2020 Strategy Put Off Track

The statistical office of the EU, Eurostat, confirmed the pessimistic assessments in October 2013 in a publication on the Europe 2020 strategy. In each chapter, for each of the five headline indicators of the strategy – on employment, research and development, climate change and energy, education and poverty and social inclusion⁶, past trends are presented, covering the period since 2000 or 2005 and include the latest data available (2011 or 2012). In this way the distance between the defined targets becomes more and more evident.

The employment rate of people aged 20 to 64 years increased between 2005 and 2008, peaking at 70.3 % in 2008. The trend was reversed in 2009 when the economic crisis fully hit the European labour market, bringing the employment rate down to its 2006 level of 69.0 %. During the next three years the employment rate came to a standstill at 68.5 % without any progress being recorded towards the Europe 2020 target of 75 %.

Between 2009 and 2011 R&D expenditure stabilised at about 2 % of gross domestic product (GDP). This has put the EU off the track of its Europe 2020 target of raising combined public and private R&D expenditure to 3 % of GDP.

In the period 2005 to 2007 greenhouse gas emissions remained almost constant, but started declining in 2008, mainly as a result of the economic crisis and the slow economic recovery which dramatically reduced industrial activity, transport volumes and energy demand. The mild winter of 2010/11 further pushed down energy demand and emissions.

⁵ <http://www.etuc.org/documents/etuc-position-europe-2020-strategy-%E2%80%93-assessment#>

ETUC position on Europe 2020 strategy – an assessment, adopted at the Executive Committee meeting of 5-6 March 2013

⁶ <http://epp.eurostat.ec.europa.eu/FILES/2013/02/13-238/EN/KS-02-13-238-EN.PDF>

The fall from 15.8 % in 2005 to 12.8 % in 2012 represents considerable progress towards the headline target of reducing early leavers from education and training to less than 10 % by 2020. Nevertheless, demographic trends might render the Europe 2020 target unfeasible if efforts to keep people in education are not stepped up.

In 2011 the EU was about 24 million people out from its target to reduce the number of people at risk of poverty or social exclusion by 20 million by 2020 compared with the level in 2008. Without adequate policy measures to rapidly reverse this escalating poverty trend, the EU risks moving away from the Europe 2020 headline target on poverty. Despite the cushioning role of automatic stabilisers and other discretionary policies adopted across the EU, the number of people at risk of poverty or social exclusion climbed to almost 120 million in 2011.

Taking the available official indicators one by one (12.1.2014)⁷, the result becomes quite clear.

The employment rate has remained at 68.5 - target is 75.0.
R&D expenditure – has increased slightly from 2.01 to 2.06 - target is 3.0.
Greenhouse gas emissions are indeed dropping from 85.7 to 83.0 (2011) - target 80.0.
The share of renewable energy has slightly increased from 12.5 to 13.0 (2011) - target 20.0.
Primary energy consumption has dropped from 1644.6 to 1583.0 (2011) - target 1474.
Final energy consumption has dropped from 1152.5 to 1103.3 (2011) - target 1078.
The share of early school leavers has dropped from 14.0 to 12.8 - target 10.0.
Tertiary education has been increased from 33.5 to 35.8 - target 40.0.
The people at risk of poverty increased from 116847 to 123118 - target: reduction by at least 20 million people.

These indicators show that the benefits of the Europe 2020 strategy mostly failed to materialise and are certainly overstated in official discourses. There is quasi stagnation in many areas – and in addition, one can ask if the indicators reflect reality adequately for instance, on unemployment. The conclusion from these data 2010-2012 is that the current economic governance and austerity policies do not help to fulfil the objectives of Europe 2020. The existing broad consensus on the Europe 2020 goals, for instance, all agree on the need to invest more in R&D, is not a sufficient condition to ensure that progress is being realised.

Turning a Blind Eye to Reality and Real Trends

References to the omnipresent “Europe 2020” can be found all over the European institutions, in Commission documents, speeches by the Commission President, as well as in the declarations of the Council, or reports from the European Parliament. Everybody agrees on the objectives, however the question is whether these 2020 objectives are as important as other objectives or less?

Most topics or keywords in European policy are linked to Europe 2020 in one way or the other, but some are not.

In October 2012 the Commission presented a communication “A Stronger European Industry for Growth and Economic Recovery” designed to increase the manufacturing share of GDP from its current level of around 16% to 20% by 2020 to promote the re-industrialisation of Europe⁸. The communication shows the Commission’s intention to

⁷ 2010 compared to the newest available data from 2012 unless noted otherwise;

http://epp.eurostat.ec.europa.eu/portal/page/portal/europe_2020_indicators/headline_indicators

⁸ “With the renewed industrial strategy outlined in this Communication, the Commission seeks to reverse the declining role of industry in Europe from its current level of around 16% of GDP to as much as 20% by 2020.” (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0582:FIN:EN:PDF>, page 4)

put industry back at the heart of the EU's economy - it is presented as a "flagship initiative of the Europe 2020 strategy"⁹.

Economic governance. "To ensure that the Europe 2020 strategy delivers, a strong and effective system of economic governance has been set up to coordinate policy actions between the EU and national levels."

Growth. "The Europe 2020 strategy is about delivering growth that is smart, sustainable and inclusive."

Interestingly enough, there is no mention of Europe 2020 in the Commission's communication on "REFIT – fit for growth" (2 October 2013).

Of all the members of the European Commission, Commissioner Andor continues to pay most tribute to the Europe 2020 strategy.

In the communication on the social dimension of the Economic and Monetary Union (EMU) (2 October 2013)¹⁰ a chapter deals with "The overall social dimension of the Europe 2020 strategy" containing a re-definition of Europe 2020. "The targets are already shaping social policies in the EU." This assumption is far from being a realistic assessment.

Furthermore, the Communication claims: "the adoption of the Europe 2020 strategy put social policy at the core of EU economic strategy for the first time." Isn't it more the other way round – the Europe 2020 strategy side-lined the social policy agenda?

The Commission is convinced that the Europe 2020 strategy is well implemented and will finally deliver. "With Europe 2020, the EU set headline targets for raising the employment rate, reducing early school leaving, increasing the proportion of completing tertiary education or equivalent and lifting at least 20 million people out of poverty. These are the heart of its strategy for smart, sustainable and inclusive growth. The targets are already shaping social policies in the EU. Key policies adopted and measures taken at EU level are being implemented, for example the Employment Package presented in April 2012, the December 2012 Youth Employment Package, and the February 2013 Social Investment Package." The Commission seems convinced that Europe 2020 is on track and delivering.

The Communication regrets that some inconvenient factors outside of the Commission's competence, and completely unrelated to European policies, make it hard to fulfil the targets. "The economic crisis has made it harder to meet the Europe 2020 targets: employment has suffered in most Member States and disparities in the employment and social situations of Member States have been growing. Some 26.6 million people were unemployed in the EU-28 in July 2013, including over 19.2 million in the euro area. Nearly a quarter of economically active young people in Europe are unemployed: 23.4% (5.6 million) in the EU-28 in July 2013 and 24% (3.5 million) in the euro area. Poverty and social exclusion have been on the rise since 2009, especially in Member States in southern and eastern Europe." The failures of the Europe 2020 policy are ducked by blaming the crisis.

In spite of the crisis, the Commission pretends that the Europe 2020 strategy has delivered an effective economic governance architecture. "Overall, the Europe 2020 strategy delivers an effective system of economic governance which has been set up to coordinate policy actions between the EU and national levels." Again one has to ask the question whether it doesn't look more like the other way round? Economic governance has encapsulated and neutralised the Europe 2020 objectives. There is a coordination of economic policy accompanied by the subordination of social policy.

⁹ http://ec.europa.eu/enterprise/policies/industrial-competitiveness/industrial-policy/index_en.htm

¹⁰ http://ec.europa.eu/commission_2010-2014/president/news/archives/2013/10/pdf/20131002_1-emu_en.pdf

ETUC RESOLUTION ON THE EUROPEAN SEMESTER 2014 ETUC KEY MESSAGES FOR THE EUROPEAN COUNCIL

Adopted at the Executive Committee 11-12 March 2014

Key Messages

To ensure a full recovery, Europe needs structural investments, fair pay and decent working conditions for all workers. The ETUC therefore calls on the Spring European Council to adopt a new direction as, without a radical shift in policy, the European Semester 2014 will do nothing to secure a sustainable recovery.

Although Europe faces economic stagnation and mass unemployment for the foreseeable future, the main policy signal that the Annual Growth Survey (AGS) 2014 sends out for the current European Semester is, essentially, one of 'business as usual'.

Europe needs structural investment, rather than structural reforms which further erode workers' rights. A major European investment programme, as proposed by the ETUC, investing 2% of European GDP over a period of ten years is urgently required to deliver a modern economy in a global marketplace and to address economic and social divergence in Europe.

Europe needs to see wages as a source for growth and as a pillar of price stability. Getting workers across Europe to compete against each other does not work. Wages and collective bargaining systems must be restored to steer European economies away from the debt deflation trap. Robust increases in real wages are required to put the economy on a strong growth trajectory and to increase purchasing power.

Europe needs to respect and promote autonomous collective bargaining by social partners as the best instrument for designing labour market reforms and fixing wages. The decision on how to organise wage bargaining is a national competence and reforms to strengthen wage formation and bargaining systems can only be undertaken through negotiations with social partners and after in-depth social dialogue at a national level. Social partners must be fully involved in the all stages of the European Semester process and their views taken into account.

Europe needs to promote quality jobs for all workers as the means to address labour market segmentation. Precarious contracts and working practices will only lead to a precarious labour market and increase poverty among the workers even further.

Europe needs to invest in its workforce. Well-skilled workers are essential if Europe is to meet the challenges of globalisation. However, despite consensus that investment in education, lifelong learning, skills and training are crucial, the reality is that many Member States, as well as many companies, are reducing spending and making reforms with little attention to the impact on the quality of education and training.

Europe needs social investment. Social protection systems must not merely be reduced to instruments of adjustment in the context of fiscal consolidation. This weakens their function as automatic stabilisers and their key role in poverty reduction and contributing to aggregate demand.

Introduction

'Business as usual' is the main policy signal that the Annual Growth Survey sends out to Member States regarding the coordination of their macro-economic, budgetary and structural policies in the 2014 European Semester cycle. It advises them to "stay the course" of austerity and push ahead with "bold" and "ambitious" structural reforms that trigger downwards pressure on wages and introduce even more flexibility in European labour markets already characterised by too much precariousness.

This is a dead end road. Getting workers across Europe to compete against each other by depressing their wages does not work. Europe, as a relatively closed marketplace, can hardly steal jobs from itself and so wage depression in one Member State will be at the expense of export markets of others. European policy makers should also be extremely wary of wage depression spilling over into strong deflation, thus increasing the real burden of debt and squeezing even more demand, activity and jobs out of the economy.

Austerity is still firmly on the agenda

Faced with record high unemployment rates and a fragile and weak recovery, the AGS 2014's key recommendation on economic policy is to "stay the course of the growth friendly differentiated fiscal consolidation strategy". The continuation of this policy of coordinated austerity, risks substantially weakening the recovery as Member States continue to simultaneously reduce their deficits.

Despite some welcome language on the need to tackle aggressive tax planning and tax havens, the Commission continues to promote an ideological bias against public expenditure and taxation, calling on Member States to favour "expenditure-led consolidation". For those Member States that have some room for fiscal stimulus, the Commission recommends tax cuts and reductions of social security contributions, as some of the measures that should be used to stimulate investment. This ignores the fact that some of the economies that have been most successful in weathering the crisis have relatively high tax rates and utilise that revenue to invest in their economies and the provision of efficient and modern public services.

There is a disturbing neglect of the fact that certain Member States are struggling with a severe growth unfriendly macroeconomic policy mix. Indeed, those Member States that are most in need of an economic expansionary policy are forced to implement the most severe contractionary policy, with France, Belgium and Portugal facing an additional consolidation effort of 2% of GDP and Spain, Slovenia and Ireland an effort of 5% of GDP. However, monetary policy cannot react to these fiscal cuts and their negative effect on the economy by cutting short term interest rates further since these are already at the zero bound and cannot become negative. What complicates matters even more is that long term interest rates are still at levels as high as 4 to 5% in these Member States which is much higher than nominal growth rates. In this way, incentives for investment and, therefore, economic recovery itself, are seriously hampered. In short, these Member States are facing both the negative impact of fiscal cuts as well as finance conditions that work to depress investment.

By advocating cuts in social security contributions, the Commission is in effect encouraging Member States to further undermine the already weakened automatic stabilisers that were so crucial at the onset of the crisis. The ETUC welcomed the Commission's approach in its Social Investment Package which illustrated that social policy adds a real value to society and people, which cannot be quantified simply by looking at levels of expenditure. It is regrettable that in the AGS, the Commission fails to take account of its own policy advice.

Social protection schemes are important tools to prevent poverty, particularly now when poverty is rising in Europe. They are not, however, only safety nets for those in

need of assistance but also play an important role in maintaining aggregate demand. They are a means of providing purchasing power to those who are most in need, who in turn contribute to the economy through their consumption.

Education, training, research and innovation are key if Europe's workers are to be equipped with the skills and competences required in an increasingly globalised economy. The Commission recognises this and recommends that Member States prioritise funding in these areas. In a framework of deepened economic governance and continuing fiscal consolidation, it is hard to see where Member States should find the financial resources to support these four priorities. The ETUC proposes that investment in education, training, research and development should be excluded from the calculation of public deficit and debt within the Growth and Stability Pact.

More structural reform of wages: a recipe for deflation

On top of contractionary macroeconomic policies comes contractionary wage policy. Five years into the crisis, real wage developments have lagged behind trends in productivity in 16 Member States and this number is expected to increase to 20 in the next two years (2008-2015 period). In a multitude of countries, the gap between real wage dynamics and productivity over the entire 2008 - 2015 period will reach as high as 8 to 17%. This concerns Greece, Spain, Romania, Ireland, Cyprus, Latvia, Poland and Portugal, among others.

Additionally, the Euro Area is characterised by absolute wage depression, both in real and in nominal terms. For the Euro Area as a whole, growth in real wages has been zero since 2011 and this is expected to continue into 2014. In 11 of the 18 Euro Area Member States real wages will actually fall in 2014.

The Commission's response to these wage issues is inadequate and ambiguous. While calling for "further reform efforts to ensure wage developments in line with productivity, thus supporting competitiveness and aggregate demand", the Commission conveniently ignores the fact that if wages have come down, this is as a result of the structural reforms policy that the Commission has itself been promoting.

Moreover, the AGS 2014 fails to specify whether real or nominal wages should follow productivity. This distinction is crucial. In the former case, nominal wages reflect both productivity and inflation. In the latter, however, nominal wages are limited to productivity developments only without incorporating any increases in price levels, not even those that are consistent with the ECB's own target of price stability. This makes the latter formula a direct recipe to trigger a competitive wage spiral.

The ETUC deeply regrets the Commission's complete silence on this issue. In doing so, it leaves the initiative to powerful players such as the ECB and ECOFIN, enabling them to put their interpretation of how wages should evolve. In practice, it will be 'business as usual'. Member States will continue to be under pressure to deregulate wage formation systems so as to ensure the implementation of this strange formula where nominal wages are strictly limited to productivity and ignore inflation.

More structural reform of labour markets: precarious jobs will make a precarious recovery

The ETUC has called for major investment leading to sustainable and quality job creation in Europe - with nearly 16 million short-term unemployed there is no lack of potential supply to meet this extra demand. In our view, such investment is the best way to prevent cyclical unemployment from becoming structural.

Despite some indications that the unemployment situation is finally stabilising, Europe is staring down the barrel of a lost decade, with predictions that it will take at least that

long before unemployment levels return to the pre-crisis levels. While the AGS recognises the seriousness of the situation, yet again, the Commission fails to deliver the policy recommendations that will lead to an improvement that will benefit all Europeans.

It is premature to speak of the crisis being over while unemployment continues to affect over 26.5 million people across Europe. Worse, it portrays a blasé attitude to the plight of Europe's poor and the 8 million extra people that are now at-risk-of- poverty since the onset of the crisis.

The Commission's recently published Employment and Social Developments in Europe 2013 and the ILO's Global Employment Trends 2014¹ confirm the ongoing difficulties in the European labour market. Despite the fragile signs of economic recovery, the employment and social situation is likely to remain depressed for some time to come. Growing inequalities pose a risk to social cohesion and, as the IMF has also pointed out in a recent paper², can be a drag on economic growth and jeopardise its sustainability.

The AGS continues to push structural labour market reforms as the panacea that will 'eventually' deliver results. The ETUC is especially struck by the ongoing attempt at EU level to redefine high cyclical unemployment as becoming 'structural'. Policy documents systematically focus on the skills' mismatch and firms where production is constrained due to a perceived lack of skilled labour, while ignoring the much greater number of firms that point to a lack of customer demand as the reason they are not producing more.

“Promoting job quality.” Europe must restore the missing link of the European Employment Strategy

Promoting job quality, as set out in the Employment Guidelines³, must become the driving force behind Europe's Employment Strategy, and the European Semester should be used as a vehicle to ensure this.

Employment Guideline 7 aims at 'Increasing labour market participation of women and men, reducing structural unemployment and promoting job quality'. This last dimension is, however, conspicuous by its absence in the AGS, the JER and the Scoreboard of employment and social indicators. The AGS 2014 focuses solely on the need to increase labour market participation and boost the quantity of jobs, but totally ignores the qualitative dimension. There is no shortage of references to the need for "quality" in other respects (policy making in public administration, consolidation programmes, public expenditure etc) but not a single reference to quality jobs.

The Commission hails the "important measures" that Member States have taken to reform labour markets and enhance their resilience. During the crisis, huge and disproportionate efforts have been demanded of European workers. Too often, the policy approaches pursued have been unbalanced and the experience of ETUC members in several Member States is that labour market reforms have intensified job destruction, lowered lower wages, increased precariousness and worsened working conditions and the quality of employment in general.

Labour market segmentation poses a serious threat to the efficient functioning of European labour markets. Precarious work characterised by job insecurity, low wages, poor working conditions and little or no employment protection, continues to increase. Europe should not be striving to compete on the basis of precarious jobs and low

¹ http://www.ilo.org/global/research/global-reports/global-employment-trends/2014/WCMS_233953/lang--fr/index.htm

² Redistribution, Inequality and Growth, IMF Discussion Note February 2014, SDN/14/02

³ 2010/707/EU: Council Decision of 21 October 2010 on guidelines for the employment policies of the Member States <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0707:EN:NOT>

wages but on the solid foundation of a well-skilled labour force and on innovation and quality. Rather than pressing for weaker employment protection legislation and even more flexibility for all workers, promoting job quality should be at the fore of EU employment policy to combat an increasingly precarious workforce and rising inequalities. These elements, which are key aspects of the European social model, are essential if Europe is to realise its full potential and enhance its competitiveness.

Education and training reforms implemented by Member States have often merely amounted to reductions in public expenditure, without any clear impact in terms of improved quality or efficiency. Additionally, transition mechanisms such as apprenticeships, dual systems and traineeships have not been effective enough and suffer from poor implementation by most Member States. The Commission should set clear standards and achievable objectives in the CSRs and monitor such reforms in terms of quality assurance, working conditions and concrete support for employment.

More support is needed for young people, but other workers must not be neglected

The Commission's Youth Employment Package was a positive first step towards beginning to address the dire situation that millions of young Europeans are currently experiencing. Nevertheless, the measures and resources proposed are inadequate to tackle the major problems of youth unemployment, inactivity, precariousness and increasing inequalities in access to education, welfare and social security that have significantly worsened due to the austerity measures implemented across Europe.

Six billion euros have been allocated towards the implementation of the Youth Guarantee but the ILO estimates⁴ that 21 billion euros is required for its full implementation in the EU. Implementation at the national level is extremely patchy, jeopardising the objective of easing the transition of young people into the labour market. The weak recovery is failing to deliver enough new jobs and those that are created are increasingly precarious in nature.

In view of the particularly dramatic situation regarding youth unemployment levels, it is understandable that much of the focus has been on addressing this issue. However, the situation of other groups, notably women, older workers and migrants, in the labour market, and the barriers they experience, must not be neglected. Lifelong learning and continuous workplace training should be supported by concrete actions, in order to strengthen policies aimed at preventing unemployment and supporting anticipation of change.

The AGS correctly recognises that if workers are to be expected to have longer and more fulfilling working lives, adequate skills, lifelong learning, enabling working environments, and addressing gender pay and pensions' gaps will be key. Recent figures show that the European gender pay gap is now stagnating at around 16%, representing 59 days where women in Europe work for free. Yet again, however, the Commission's appreciation of the challenges does not translate into relevant policy recommendations for example, in 2013, only one country received a recommendation regarding tackling the gender pay gap although this problems affect all the Member States.

There have been many CSRs recommending raising retirement ages, without properly linking this to the possibilities people have in reality to work longer. Ensuring that their work does not adversely affect peoples' health and safety is an essential element of creating an enabling working environment, but we currently face the prospect that the EU will not have in place another Health and Safety Strategy before 2016. Similarly, a general statement about adequate skills and lifelong learning to enable people to work longer is something of an illusion to those on precarious contracts, the unemployed or

⁴ Eurozone Job Crisis: Trends and Policy Responses 2012

those on sickness benefits. If the age limit for entitlement to retirement benefits is to be raised, then entitlement to unemployment and sickness benefit should also be raised accordingly.

Scoreboard of key employment and social indicators

The JER 2014 contains the first Scoreboard of key employment and social indicators. While the Scoreboard can contribute to the analysis and provide an overall picture of employment and social developments, unless the results can influence the policy direction and correct macroeconomic policy as necessary, it will be of little consequence.

The current indicators are principally retrospective and, if the scoreboard is intended to act as an early warning system, insufficient to allow for pre-emptive action to tackle imbalances. More leading indicators and indicators addressing the quality of employment are required. The ETUC has previously identified the types of indicators we would like to see included⁵ in the future. In this context, the ETUC welcomes the concrete indication from EMCO that it will involve the social partners in its work to improve the scoreboard.

To conclude, the ETUC demands the following: ensure full recovery, ensure more and better quality jobs and restore collective bargaining.

Pursuing the same policies will have the same results. If austerity policy is continued, the recovery will be weakened. If, under the motto of 'any job is better than no job', precarious jobs are being promoted, then those precarious jobs will produce a precarious recovery. If structural reforms continue to weaken wages and collective bargaining institutions, inflation, which is already too low to be comfortable, will tip over into open deflation.

The European Semester should be seized as an opportunity to take a different direction. The ETUC urges the Spring European Council to:

- urgently put in place a major European investment programme that modernises and upgrades its economy in a global marketplace and addresses rising economic and social divergence in Europe and the Euro Area. The ETUC's plan for investment, sustainable growth and quality jobs⁶, proposing a 2% of GDP investment effort over the next ten years, is more valid than ever;
- recognise that Europe needs stronger nominal wage dynamics to steer the economy away from the debt deflation trap, and robust increases in real wages to put the economy onto a strong growth trajectory. The respect and promotion of autonomous collective bargaining is the best instrument to achieve all of this, as well as for negotiating restructuring processes, supporting productivity and investment, fostering redistribution and fighting poverty, and for restoring democracy and workers' participation at the workplace. The statutory minimum wage, in those countries where trade unions consider it necessary should be increased substantially. In any event, all wage floors should respect Council of Europe standards on fair wages;
- strictly adhere to the principles of the European Treaty of respecting the autonomy of social partners and the diversity of national systems of industrial relations. In this context, the ETUC underlines that the decision on how to organise wage bargaining is a national competence and that reforms to

⁵ ETUC position: European Commission Communication on Strengthening the social dimension of Economic and Monetary Union <http://www.etuc.org/documents/etuc-position-european-commission-communication-strengthening-social-dimension-economic#.UwsIa8rLJBM>

⁶ <http://www.etuc.org/documents/new-path-europe-etuc-plan-investment-sustainable-growth-and-quality-jobs#.UwsIFcrLJBM>

strengthen wage formation and bargaining systems can only be undertaken through negotiations with social partners and after in-depth social dialogue at a national level;

- promote quality jobs for all workers as the means to address labour market segmentation. Precarious contracts and working practices will only lead to a precarious labour market and increase poverty levels among workers even further;
- invest in Europe's workforce. Well-skilled workers are essential if Europe is to meet the challenges of globalisation. However, despite consensus that investment in education, lifelong learning, skills and training are crucial, the reality is that many Member States are reducing spending and making reforms with little attention to the impact on quality of education and training, while too many companies are staying on the side lines when it concerns investing in the skills of their workers;
- defend the role of social protection systems as more than just another instrument of fiscal adjustment. Social policy and social investment has a key role to play in achieving cohesive societies, reducing poverty and also in supporting the economy.

**Pan European Regional Council
Statement on the situation and the way out of the crisis in Ukraine**

1. Trade unions in Europe have been following with growing concern the unfolding events in Ukraine whose repercussions, in addition to those affecting the Ukrainian people, have wide-ranging geopolitical consequences. The pictures from landmark Maidan square and the streets of Kiev have manifested the power of the eruption of the free will of the people demanding dignity, democratic rights and a future of their own choice. They have demonstrated a remarkable resilience in facing an oligarchic system of state governance based on corruption and abuse of power that did not hesitate to respond with blatant disrespect of human rights and reckless use of force, violence and firearms. The dire outcome has been the loss of scores of human lives, hundreds more injured, a devastation of public property and the plunging the economy and society into a whirlpool of instability, internal conflicts, security and national integrity challenges involving powerful external interests. Unfortunately, some violent fascist and neo-nazi groups, which we totally oppose, have sought to capture this peaceful political revolution for their own ends.
2. The citizens and working people in particular have paid and are paying the price for years of irresponsible policy-making, unaccountable management of the economy and systematic disregard of the rights and freedoms of the people on a massive scale.
3. The way out of the crisis will require herculean efforts of the people of Ukraine. Success will necessitate motivation, national mobilisation and stable public consensus to go through the difficult times ahead. Economic and social achievements of the Ukrainian people were already under pressure and the forthcoming adjustment policies can put them in further jeopardy and undermine the very basis of the needed national consensus. External support, including financial, should provide the necessary incentives to encourage transparency and inclusion of the stakeholders and democratic ownership in all stages of the stabilisation and recovery process. The European Union must play its full role in this process.
4. To face the real challenges and secure a peaceful, efficient and socially acceptable way out from the crisis, the organisations members of the Pan European Regional Council outline a minimum set of urgent measures to be undertaken as soon as possible:
 - There is no solution possible without peace. De-escalation of tensions, more diplomatic efforts and respect for the Ukrainian Constitution and the interests of all sides, including territorial integrity and the withdrawal of all armed forces, are the only way for a peaceful solution. All internal and external actors should exercise maximum responsibility in their speech and restrain their actions within the norms of international law and constitutional principles and open space for the Ukrainian people to freely define their future.
 - Efforts to shift to a genuine democratic political system and working public institutions should continue through free and fair elections and constitutional reform that will provide real equality of rights and inclusion of all citizens, with full respect for all minorities (cultural, linguistic, religious) in all regions of Ukraine.

Acts of violence and illegal appropriation of public money or abuse of public office should be investigated, given a fair trial and perpetrators brought to justice.

- The EU and the international financial institutions should shape assistance packages so as to integrate an efficient social dimension including trade union and workers' rights in the reforms, preventing a further degradation of working and living conditions in the adjustment period. European trade unions strongly underline that resorting to the "austerity policy" approach, as practiced by the "troika" of the IMF, EU and ECB, will be a grave mistake, endangering Ukraine with further recession, destabilisation, and social despair that will have consequences across the region, both West and East.
 - Social dialogue with trade unions and employer organisations as well as civil dialogue are indispensable for making economic reforms sustainable and legitimate and convincing people the outcomes are worth their efforts and sacrifices. International and European labour and social standards provide a clear frame of reference, backed by practical experience in previous transformations in Eastern Europe, including EU member states.
 - Efficient and affordable public services are the best line of defence against social marginalisation and the danger of turning a political revolution into a social explosion. External assistance packages should clearly prioritise support for quality public services to stabilise the effects of the financial and economic reforms not undermine them over time.
5. The European trade unions and the international trade union movement express their full solidarity with the trade unions and workers in Ukraine. They will provide full support for their Ukrainian affiliates through the difficult times ahead to enhance their contribution to the recovery process and to develop systems of labour relations and social policy that Ukrainian working people deserve and have been fighting for.

10 March 2014
Brussels

ETUC declaration on industrial policy, energy and the fight against climate change

Adopted at the meeting of the Executive Committee on 11-12 March 2014

The European Council of 21 March 2014 will address industrial policy, energy and the fight against climate change. On 22 January 2014, the European Commission published two communications entitled "For a European Industrial Renaissance" and "A policy framework for climate and energy in the period from 2020 to 2030". The aim of this declaration is to remind Europe's political leaders of some key elements of the ETUC's position on these issues.

The ETUC welcomes the fact that the issues of industrial policy, energy and the fight against climate change appear together on the Council's agenda. These three topics are closely interlinked and must be addressed in a coordinated and consistent way, in particular, to limit the risk of "carbon leakage" for the post 2020 era. Energy is a key dimension of industrial policy and manufacturing activities are the backbone of strong and resilient economies. Countries with a large industrial base have resisted the crisis better. The harmonisation of timetables is an important step in coordinating these policies, which are essential to the creation of a sustainable and socially just European economy. However, the ETUC stresses that there can be no question of establishing a hierarchy between maintaining quality employment in Europe and combating climate change. These two challenges must be tackled simultaneously and with the same determination. The increase in extreme weather events reminds us how vital it is that everything be done to achieve a legally binding international agreement which is sufficiently universal and ambitious at the 2015 Paris Conference.

The ETUC asks that 'Just Transition' be an integral part of the policy framework which the EU will adopt to organise the transition to a low-carbon economy beyond 2020. The notion of 'Just Transition', which the trade union movement has advocated for many years, aims to integrate employment demands into European and international climate policies – both quantitatively and qualitatively, including training, worker participation, social protection and trade union rights. The ETUC greatly regrets that this notion has not yet been integrated into European policies, despite being part of the international agreements which the EU signed in Cancun in 2010. The adoption of a roadmap for a 'Just Transition' in Europe is an essential correction to the current policy framework, which drastically neglects labour issues. Putting 'Just Transition' into practice will be essential to ensure that all workers support the policies aimed at greening the European economy.

The ETUC regrets the lack of specific content on jobs, youth employment and quality of work in the Commission Communication "For a European Industrial Renaissance". European industrial policy must place the issue of quality employment at the heart of its objectives, yet the text of the Communication offers no guarantees that the proposed measures will result in the creation of quality jobs for European workers.

The Communication on industrial renaissance focuses on policies to strengthen the internal market and recommends boosting competitiveness through deregulation (REFIT) and the promotion of "growth-friendly" public administration. This restrictive notion of competitiveness, which is central to the policies being implemented to combat the crisis, has the effect of weakening essential public services and challenging regulations deemed detrimental to business competitiveness, particularly in the field of occupational health and safety. Re-industrialisation is a fundamental objective for the future of Europe, but it must not come at the expense of regulations that protect workers and citizens. Low-cost competitiveness based on deregulation and social dumping must be replaced by competitiveness based on quality, innovation and

investment. Funding for innovation, research and development in sustainable industrial technologies must be urgently and dramatically increased.

The Commission partly addresses this ambition of basing Europe's competitiveness on quality by making industrial modernisation one of the pillars of its policy. In the policy, it stresses the importance of innovation and new technologies and sets out the budget lines available to businesses, Member States and regions. This proactive approach is to be welcomed. However, such measures will only succeed if they are backed up by an ambitious investment plan and a regulatory framework enabling the public authorities to play an active role in industrial redeployment, particularly via state aid policies that allow the development and long-term survival of industrial projects in Europe, and the jobs associated with them.

As regards the synergies to be developed between the 2030 climate and energy package and industrial policy, the ETUC is concerned about the vast gulf between, on the one hand, the absolutely essential goal of reducing greenhouse gas emissions by 80 to 95% by 2050 (compared with 1990 levels) and, on the other hand, the inadequacy of the resources available to give the European economy the technologies and infrastructure required to bring about the transition to a low-carbon economy. The ETUC believes that there is an urgent need to finance low-carbon technology pilot projects in Europe, without which European industry will be unable to meet the targets set for it in the "Roadmap for moving to a competitive low carbon economy in 2050".

The ETUC notes the Commission's proposal to reduce the EU's greenhouse gas emissions by 40% by 2030. The absence of clear energy-efficiency targets is the main shortcoming of the European Commission's proposal for 2030. Given the energy dependency of the EU, which imports 55% of the energy it consumes, and given the high proportion of energy in production costs, the competitiveness of the European economy depends on enhancing its energy efficiency. Furthermore, ambitious targets in this area generate investments that create non-relocatable jobs in sectors such as construction and transport. The ETUC therefore finds it regrettable that this crucial issue was not included from the outset in the debate on climate and energy policies to 2030. The Commission's proposed target, which is to increase the share of renewables to 27% of energy consumed in Europe by 2030, on the one hand deprives Europe of an essential incentive to develop a job-creating industrial sector while on the other hand limiting the potential for sustainable domestic energy generation in Europe. While the ETUC supports the idea of three national binding targets, national circumstances should be better taken into account.

The European framework enables economies of scale and the pooling of resources and the ETUC has been calling for a common European energy policy for many years. The energy debate cannot be reduced to the pursuit of low-cost competitiveness and Europe's energy choices cannot be left to the market. The challenges of supply, energy dependency, environmental protection and access to energy require a policy based on better market regulation, support for innovation and funding for the upgrading of energy generation and distribution infrastructure. The ETUC stresses that ensuring access to energy is a vital requirement of the European re-industrialisation strategy.

The ETUC will continue to monitor industrial policy, energy and climate issues closely over the coming months and to demand a just transition for the EU, its citizens and workers. The ETUC points out that it has proposed a plan for investment, sustainable growth and quality jobs entitled "A new path for Europe"¹ which, once again, is a necessary precondition for meeting industrial policy, energy policy and climate change objectives.

¹ <http://www.etuc.org/documents/new-path-europe-etuc-plan-investment-sustainable-growth-and-quality-jobs#.UxW1RbTllyQ>

ETUC Resolution Improving quality of Apprenticeship and Work-based learning

Adopted at the ETUC Executive Committee on 11-12 March 2014

Background

Work-based learning, which is generally associated with apprenticeships for young people and dual systems of vocational training, is part of the policies supporting the transition from school to the labour market. It is integrated into broader education and training policies linked to labour market issues.¹

The European Commission, together with the European Parliament and several Member States, has recently strongly emphasised the crucial role that apprenticeship schemes and dual systems can play in facilitating transition from education and training to labour market, and in tackling the youth unemployment and NEET (Not in Employment Education or Training) phenomena affecting young people in most of the EU countries.

Apprenticeship and dual systems were part of the strategies set in the Employment Package (Towards a job-rich recovery, 18.4.2012), as well as privileged tools to be implemented by Member States in the framework of the Youth Guarantee and of the Youth Employment Initiative.

At the basis of such initiatives there is the Commission's conviction that education and training in general, and work-based learning in particular, together with labour market reforms, can be successful in tackling unemployment in Europe.

We, as the ETUC are not in line with such an analysis, because we are strongly convinced that only investment and different macroeconomic policies, other than austerity, can boost recovery and create jobs. Furthermore, in order to avoid jobless growth, the creation of good and fair jobs and a strong social dimension should provide the basis of the European economic governance.

The ETUC recognises that sound and work-oriented education and training policies and tools are essential to support and enhance broader macroeconomic actions to tackle recession and unemployment, particularly for young people. But at the same time the ETUC also underlines that education and training, as well as research, should be considered in the larger perspective of being essential supports to citizenship and human development, and not only as tools serving economy and labour market.

¹ *Work-based learning is often confused with workplace learning which actually means continuous training and to some extent lifelong learning for people already in work. Workplace learning is defined as activities to promote learning and training and personal development for workers in the workplace. It contributes to ensuring that workers remain in or re-enter the labour market, and that they are properly up skilled and prepared to face restructuring processes and economic changes.*

In this sense work-based learning and workplace learning are the most important pillars of the European trade union strategy to ensure that education and training policies serve labour market and workers' needs

<http://www.etuc.org/sites/www.etuc.org/files/EN->

[ETUC resolution Supporting Workplace Learning to tackle unemployment in Europe-2 2.pdf](#)

On the basis of its own analysis, the ETUC actively participated in the launch of the European Alliance for Apprenticeships, signed in Leipzig on 2 July 2013 by the European Commission, the European social partners and other stakeholders.

The ETUC together with its national and sectorial affiliates, as well as the other social partners, are now involved in implementing the Alliance and are strongly committed to putting in place actions to achieve this goal.

Apprenticeships schemes, when properly implemented, can significantly contribute to facilitating transition processes, to tackling skills mismatches in the labour market and to encouraging employers to provide young people with fair and good jobs.

However, we have also to recognise that in the current economic situation, with most of the countries still facing recession or stagnation and few of them experiencing very slight recovery, not all employers are able to create new job opportunities or are ready to employ apprenticeships properly and fairly.

Furthermore, common understanding is needed in Europe about what proper apprenticeships should be, and about which kind of reforms are needed to ensure the right definition and implementation of apprenticeship schemes, as well as full protection for apprentices.

In such a context, the ETUC developed in 2012/2013 a 1-year European project entitled "Towards a European quality framework for apprenticeship and work-based learning: best practices and trade unions contribution", which was funded by the European Commission. The project investigated apprenticeships and work-based learning, as well as the role played by trade unions in designing and delivering these schemes, in the following countries: the United Kingdom, the Netherlands, Ireland, Italy, Spain, Germany, Cyprus, Bulgaria, Denmark and Estonia.

The final project report includes a comparative study, and a list of recommendations, which constitute the basis for this Resolution. The proposed draft Resolution therefore takes into account the results of the discussion in the final conference of the project (15-16 October 2013), as well as contributions from the ETUC Lifelong Learning Working Group.

The ETUC Recommendations for Apprenticeships

The ETUC, together with its affiliates, is committed to

- a) Analyse the obstacles to the proper and full implementation of apprenticeships and dual system schemes in as many EU countries as possible.
- b) Put in place trade unions' and social partners' actions to address these obstacles and to support the social partners' role in the implementation of the European Alliance for Apprenticeships and in the negotiation and enforcement of national reforms
- c) Ensure quality in apprenticeships and dual systems, by linking them to the existing education and training quality assurance tools at the EU and national levels, with the aim of setting up a possible European quality framework for apprenticeships
- d) Ensure appropriate working conditions and protection for apprentices and young people involved in work-based learning.

In line with such general commitments, the ETUC sets the following list of recommendations, to be addressed to trade unions first, but also to other social partners and also the European and national institutions that are involved in developing and implementing apprenticeships and dual systems:

- e) Apprenticeship schemes should be clearly defined on the basis of the proposal made by CEDEFOP, the European Centre for the Development of Vocational Training, the specialist agency set up by the European Union: ‘...systematic, long-term training alternating periods at the workplace and in an educational institution or training institutions. The apprentice is contractually linked to the employer and receives remuneration (wage or allowance). The employer assumes responsibility for providing the trainee with training leading to a specific occupation’.
- f) Apprenticeship schemes should be built on stable foundations, on the basis of national law, regulations and/or collective bargaining agreements.
- g) Apprenticeship schemes should cater for the real employment and skills needs of employers within the framework of sectorial and/or national priorities and at the same time the personal development and career opportunities of apprentices.
- h) Apprenticeship schemes should require employers to enter into formal employment contracts with apprentices describing the rights and obligations of both parties, while respecting general national law or regulation.
- i) Apprenticeship schemes should require training institutions to enter into training contracts with apprentices describing the rights and obligations of both parties, while respecting general national law or regulation.
- j) Apprenticeship schemes should ensure that apprentices are paid by the employer, according to collective agreements, or a national and/or sectorial minimum legal wage, for the period of training.
- k) Apprenticeship schemes should be governed at all levels by a partnership between the social partners (trade unions and employers’ organisations), together with public authorities and training institutions.
- l) Apprenticeship schemes should guarantee good quality and safe working environments, and the public authorities together with social partners (trade unions and employers’ organisations) should be given responsibility for monitoring the suitability of workplaces and for accrediting interested companies. Before joining an apprenticeship scheme all apprentices should be provided training on health and safety at work.
- m) Apprenticeship schemes should provide appropriate guidance for apprentices, before, during, and after the training process.
- n) Apprenticeship schemes should provide opportunities for apprentices to enter higher education (e.g. universities).
- o) Apprenticeship schemes should provide opportunities for apprentices to participate in quality assurance procedures.

- p) Apprenticeship schemes should cover a wide range of different occupations and thus provide employment opportunities for all, men and women alike.
- q) Apprenticeship schemes should be built on a solid base of knowledge, skills and competences acquired in the primary and secondary school system.
- r) Apprenticeship schemes should include a strong training component, with a clear majority of learning provided in the workplace and a clear commitment to forward-looking developments within the labour market and society.
- s) Apprenticeship schemes should provide good quality training in the workplace, with in-company mentors trained for this purpose, and also within training institutions employing trainers that have up-to-date and appropriate skills.
- t) Apprenticeship schemes should be properly funded, with equitable cost sharing between employers and public authorities at regional and/or national and European levels.
- u) Apprenticeship schemes should be competence-based and have a duration which enables apprentices to attain the appropriate standards to work competently and safely.
- v) Apprentices should be accompanied by trade union representatives in the company to ensure that their rights are respected
- w) Apprenticeship schemes should be certified by competent tri-partite bodies to ensure that the knowledge, skills and competences acquired are recognised within the labour market and throughout the education and training system.
- x) Apprenticeship schemes should offer qualifications which are clearly placed within National Qualifications Frameworks (NQFs), thus ensuring progression pathways to other NQF levels and programmes.
- y) Apprenticeship schemes should ensure the recognition of knowledge, skills and competences acquired by means of non-formal and informal learning.
- z) Apprenticeship schemes should include provision for the mobility of apprentices at the transnational level within the European Union.

Trade unions throughout Europe should continue to demonstrate their active and committed support for good quality apprenticeship schemes.

Trade unions throughout Europe should improve their engagement with apprentices in the workplace so as to represent their interests more effectively.

ETUC Resolution Proposal for an Optional Legal Framework for transnational negotiations in multinational companies

Adopted at the ETUC Executive Committee on 11-12 March 2014

Summary

The Executive committee endorses the Report “Towards a Legal Framework for Transnational Company Agreements”¹ as a solid basis to support trade union demands for clearer and more transparent rules for transnational negotiations with multinational companies

The ETUC, together with the ETUFs, advocates for the establishment of an Optional Legal Framework for TCAs to be introduced through a fully binding decision of the Council according the TFEU procedures.

The ETUC encourages the ETUFs to adopt procedures for transnational negotiations with multinational companies and will support ETUFs for converging on a coherent set of internal procedures in all sectors, with particular reference to bilateral disputes settlement mechanisms.

The ETUC will promote social dialogue with European employer associations and multinational companies in order to achieve more and better TCAs.

BACKGROUND

On 18 October 2012, the Executive Committee of the ETUC endorsed the position on European Commission’s consultation on the Transnational Company Agreements (TCAs)

This position was the result of an in depth discussion which involved all affiliates and notably the ETUFs within the ETUC Collective Bargaining Committee and Task Force.

On the basis of this position, the ETUC Secretariat developed further discussions with the European Commission and the European Parliament that led to the initiative report, Cross-border collective bargaining and transnational social dialogue (2012/2292(INI)) adopted by the Parliament on 15 July 2013, rapporteur Thomas Haendel (GUE), and mainly based on the ETUC Position and the ETUFs procedures for transnational negotiations.

With this Report, the EU Parliament asks the EU Commission to consider the possibility of issuing a European optional legal framework to support transnational negotiations, and to set up mediation mechanisms to settle disputes linked to the enforcement of the agreements.

In the meantime, the ETUC started developing an EU co-financed project, in order to draft a trade union proposal for an optional legal framework, by involving legal experts and the affiliates, particularly the ETUFs. The project consisted of a first phase of research for the compilation of a report (<http://www.etuc.org/a/11793>), aiming at:

¹ Available in English, French, German and Italian at <http://collective.etuc.org/node/80>

- discussing the opportunities of developing an optional legal framework for TCAs
- defining the legal basis and the content of such a framework
- Suggesting the steps that may lead to its adoption.

The report takes into account both academic literature and political documents, in particular by the European Commission. Moreover, interviews have been conducted with several representatives of transnational companies and European Trade Union Federations involved in the negotiation and implementation of Transnational Company Agreements (TCAs).

The report starts from the evidence that the absence of a reference framework of rules represents a significant obstacle to the potential impact of TCAs expected by social partners who negotiate them, as well as to the negotiations themselves.

The report is structured into 5 sections. After an introduction, it builds on recent policy documents, in order to summarize the different legal problems at stake in the field of TCAs. Section III outlines the sources in primary EU law which are relevant for supporting an optional legal framework for TCAs. Section IV contains and explains our proposal, i.e. the adoption of a Council Decision addressed to Member States, defining rules for the conclusion of TCAs and dispute settlement. Finally, in section V suggestions are made for initiatives which need to be taken in order to move forward, towards the adoption of an optional legal framework for TCAs.

In particular the expert report identifies the most complex issues as:

- a) A lack of clear capacity/legitimacy of negotiating and signatory parties
- b) A lack of procedural rules for negotiation
- c) A lack of consistency in the implementation of TCAs between countries and subsidiaries resulting from the absence of rules or practice as to the effects and implementation of such agreements
- d) Risks associated with the uncertainties as to the legal effects of TCAs and to the application of private international law rules to disputes
- e) Resentment among managers' and workers' representatives at lower levels about the top-down imposition of measures agreed at an upper level.

The report proposes a series of solutions for a possible optional legal framework:

- f) Explains how the adhesion to the legal framework does not clash with the autonomy of social partners and the voluntary character of the agreements, as it remains "optional"
- g) Suggests that the best way to implement the optional legal framework is through the adoption at EU level of a Council Decision
- h) Identifies the main, binding elements composing an optional legal framework (para 4.2)
- i) Proposes a mediation procedure as the best dispute resolution method on the basis of experience so far
- j) Suggests a series of further interventions from the European Commission
- k) Recalls the advantages of an optional legal framework for TCAs as has emerged in the experience of workers' and employers' representatives.

As a conclusion of the research project, the European conference “Enhancing European Trade Unions in Negotiations with Transnational Companies and Implementing EFA” was organised on 30th January 2014 in Frankfurt in the IG Metall premises. The conference represented a forum to present the results of the study developed within the project and to discuss it with legal experts, affiliates (ETUFs and national confederations), multinational companies (managers’ and workers’ representatives), employers’ organisations, the European Commission and the European Parliament.

The conference aimed at:

- Disseminating best practices for transnational agreements with multinational companies, especially EFAs (European Framework Agreements)
- Delivering a more focused legal analysis of the procedures established by ETUFs
- Clarifying the legal and sustainability aspects of procedures established by social partners to frame cross-border negotiations within predefined rules and to make their effects binding at national/branch level
- Favouring the exchange between social partners and EU institutions with a view to drafting some hypothetical models of the optional legal/procedural framework at European level.

Through the exchange of good practices, the conference clarified and further specified procedures to effectively negotiate and manage transnational agreements, especially EFAs.

The exchange of best practices has disseminated know-how for future negotiations. It has helped social partners to gain a better understanding of the potential benefits of EFAs framed in a specific legal framework.

The final report of the project, integrated with the conference's outcomes, is submitted to the Executive Committee for adoption. It will represent a basis for further negotiations with the EU institutions.

The ETUC Executive committee is asked to take note of the report and to adopt the following resolution:

FOR ADOPTION

The ETUC, together with the ETUFs, urges the European Commission to advance a proposal for a decision introducing an Optional Legal Framework for transnational negotiations with multinational companies. The decision will have a legal basis in the Treaty and be formally adopted with a legal act of the Union (a decision) as argued in Chapter III of the Experts’ Report. It will thus produce obligations for Member states and for the bargaining agents, while still leaving them the choice to ‘opt in’. The obligations will result in granting a legally binding nature to TCAs, namely attributing to them a normative function.

The ETUC, in working closely together with ETUFs, will continue to advocate for the adoption of an optional legal framework for transnational negotiations with multinational companies and TCAs. The ETUC will take a two-pronged approach. On the institutional side, the ETUC will engage in lobbying the EU institutions. At the same time, the ETUC will also strengthen cooperation with ETUFs to support initiatives at the level of sector social dialogue to create consensus around the optional legal framework.

The Optional Legal Framework will include at least the following items:

- l) **The Opt-In Clause:** The social partners must clearly express their willingness to benefit from the optional legal framework set up by EU law.
- m) **Signatory parties of the TCA:** To be coherent with the legal base chosen (see above IV.1), the access to the optional legal framework should be limited to certain actors. On the workers' side, European trade union federations should be entitled to sign transnational agreement with multinational companies. EWC and workers' representatives are involved in the negotiation process and can co-sign the TCA according to ETUFs procedures and if they are part of ETUFs delegations, but in order to access to the optional legal framework, they cannot be the only signatory party on the workers' side.
- n) **Disclosure of the mandate:** Disclosure of the mandate on the workers' side is an essential element to qualify the agreement as 'collective' and to implement all collective interests at stake. However, rules to operate the mandate – majority voting, cross-industry representation, homogeneity of the rules across all sectors; vetoing powers – should entirely be left to unions' self-regulation. TCAs should reflect autonomous choices of the bargaining agents, as for the mutual recognition of bargaining powers and representativeness.
- o) **Scope of application of the TCA and changes in the composition of the Transnational Company.** The TCA should clearly define its scope of application. It should mention the conditions under which a subsidiary will (or will not) be covered by the content of the TCA.
- p) **Non-regression Clause:** TCA occupies a level of its own, distinct from national sectoral collective agreements and company agreements. TCAs cannot impose pejorative changes of labour standards and working conditions agreed upon at national level, be it sector or company.
- q) **Internal dispute settlement:** The TCA should specify the signatory parties' common responsibility in its implementation. It should also indicate the internal complaint mechanisms for workers covered by the text.
- r) **Date and venue of the signature:** The TCA should specify the date and venue of signature
- s) **Expiry date and rules to promote renewal:** The TCA should specify whether it is signed for a definite or indefinite period of time. In the first case, it has to clearly indicate the expiry date and any relevant rules that may enable the signatory parties to conclude a new TCA. In the second case, the TCA should explain the rules regarding the termination of the agreement.
- t) **Duty to notify the TCA and subsequent amendments:** Once the optional legal framework has been entered into and the TCA has been signed accordingly, all subsequent changes, in particular with regard to the disclosure of the mandate on both sides, renegotiation of the TCA after its expiry date and possible expansions in the scope of the TCA should be notified to the European Commission, or to national authorities. The text of the agreement should specify the signatory parties' responsibility to respect this notification.

The ETUC will continue pave the way for conditions for adopting an Optional Legal Framework by lobbying the Commission and other EU institutions, by proposing intermediate steps as well as further analysis on concrete best practices and obstacles,

and by starting a process for setting up a European level mediation mechanism managed by the Commission.

The ETUC will continue to perform its coordination role with the ETUFs with the aim to extend procedures to negotiate with multinational companies in as many sectors as possible.

It is important to have a high degree of convergence on the way such procedures are designed. First of all because formal procedures adopted by some ETUFs proved to be beneficial for good management of negotiations and smoother implementation of the agreements. It should also be considered that many TCAs cover more sectors, often involving more than one ETUF. Coherency in the procedures adopted within different ETUFs ensure a neat and transparent development of negotiations.

More and better TCAs need an enhanced social dialogue on this topic. European employer associations show reluctance in engaging with trade unions on this subject. In contrast, multinational companies themselves appear to be more open to dialogue.

The ETUC puts forward the following solid arguments for insisting on a closer dialogue with employer associations

- u) The extent of the phenomenon of transnational negotiations is not marginal. Multinational companies with a well-rooted presence in more member states, justifying the existence of a TCA, are estimated to number 1.000, of which about 130 already have a TCA. TCAs cover about 10 million workers worldwide and about two million in Europe.
- v) It concerns all Member States. Geographical localisation of TCAs are misleadingly identified with headquarters of multinational company who have signed the agreements. They are mostly placed in France and Germany as they are the two countries (together with the UK) in which multinational companies set their headquarters in greatest number. However, TCAs cover, and are implemented in, all EU Countries.

Past experiences show that an optional legal framework can have a strong promotional role to play. For instance, Directive 94/45 established a framework for negotiations with a view to agreeing on rules for informing and consulting employees at transnational level. Negotiations rules in the EWC directive were quite flexible and optional (including the option of not-establishing a EWC). Before the adoption of the EWC directive, only a handful of pioneers had experienced negotiations to sign agreements for the exercise of information and consultation rights at transnational level. Two years after the adoption, 350 companies had already achieved an agreement and today more than one thousand agreements have been signed to introduce transnational information and consultation rights of employees in multinational companies.

The promotional role of an EU legal framework, with the same characteristics of flexibility and optionality, can multiply the number of agreements, spreading best practices and improving the implementation of existing TCAs.

For these reasons, the ETUC will support ETUFs in the attempt to open a dialogue with their counterparts at sector level.

Furthermore, in order to enhance social dialogue on this topic, the ETUC plans for a project possibly in partnership with the employer associations to be financed under the budget line "Information, consultation and participation of representatives of undertakings".

Resolution on Airbus union members indicted in Spain

Adopted by the ETUC Executive Committee at its meeting on 11-12 March 2014

On 29 September 2010, Spain's main unions the CCOO and UGT (Comisiones Obreras and Unión General de Trabajadores) called for a general strike to express their opposition to the policies implemented by the national government regarding labour issues, which represented a sharp decline in the rights of workers.

The right to strike is a fundamental right enshrined in the Spanish Constitution, which must be protected especially when exercised.

Early in the morning on the day of the general strike, several hundred Airbus EADS - CASA workers in Getafe (Madrid, Spain) gathered at the entrance of the workplace to express their support of the strike.

The presence of a large number of anti-riot police units at the factory gate, and their attitude towards the workers gathered there, created a climate of tension. Police behaviour did not help keep law and order but rather favoured the various incidents that took place and led to the use of weapons by the riot police, who fired at least seven shots.

Following the serious incidents that took place on the day of the general strike and the subsequent police report, the Magistrate's Court began a hearing concerning allegations made by the prosecution against 8 union members from the CCOO and UGT which could lead to imprisonment penalties of eight years and three months each and a total of sixty-six years in prison, plus a security of • 31,059.52 to which the defendants must respond jointly and severally.

The Executive Committee of the ETUC (European Trade Union Confederation) expresses its solidarity with the 8 trade union members from Airbus - Spain who on 29 September 2010 defended the rights of workers, and demands the removal of the prosecution case against these trade unionists, making it clear that the right to strike and freedom of association cannot be criminalised.

The Executive Committee of the ETUC supports the demonstration on 14 March at the factory gates of Getafe and sympathises and supports all actions convened by the trade unions CCOO and UGT aimed at securing the freedom of the accused union members.

This resolution is also calling for other similar resolutions to be taken at national level in support of the 8 Spanish trade unionists and rejects anti-union practices which have led to the current situation in Spain.

2013

ETUC declaration on Ukraine

Adopted at the Meeting of the Executive Committee of 3-4 December 2013

The ETUC Executive Committee today considered worrying developments in Ukraine and condemned the violent repression of demonstrators in Kiev.

They expressed regret that the conditions were not right for the partnership agreement with the EU to be concluded in Vilnius on 29 November 2013.

They took note of the current difficult economic, social and political situation in Ukraine which has been exacerbated by external pressures including trade sanctions. They also expressed concern that attempts by EU leaders to impose their failed austerity policies on Ukraine were a contributory factor.

They called for an inclusive dialogue to be established that would allow the Ukrainian people to decide on their future free from outside interference.

ETUC RESOLUTION FOR A MORE EFFECTIVE PROTECTION OF MIGRANTS AND REFUGEES, THEIR LIVES AND THEIR RIGHTS ON THE EU's BORDERS

Adopted at the Meeting of the Executive Committee of 3-4 December 2013

SUMMARY

- The dramatic events in Lampedusa provoked a wave of indignation throughout Europe and worldwide. It is one of the recurrent tragedies involving migrants on the border of Europe, notably in the Mediterranean Sea.
- The Southern routes of migration will be fed by wars and persecutions and natural events hitting the population in Africa and in the Middle East. The political instability of such areas reduces margins of cooperation with origin/transit countries.
- The EU Asylum and Migration Policy has progressed in recent years, but it still reveals domains in which EU instruments are not appropriate to effectively tackle current emergencies in a spirit of solidarity. Member States are less cooperative, legislation is fragmented and poorly enforced, resources for EU operations insufficient.

The ETUC:

Calls Member States to show greater cooperation for international protection of refugees as a long-standing feature of EU migration policy;

Calls for more legal channels for migrants, especially for refugees and people in need of international protection. Calls for the respect of human rights of migrants as enshrined in EU fundamental law and international conventions;

Denounces the unjustified criminalisation of undocumented migrants and disproportionate use of illegitimate detention, often in inhuman conditions.

The EU needs a solid anti-trafficking policy in which smugglers, traffickers and facilitators can be firmly persecuted. Cooperation with origin and transit countries cannot be limited to police operations but must be aimed at social and economic development of the less developed areas of the world.

The ETUC supports the European Parliament's proposals for a reformed asylum and migration framework at EU level. At the same time, the ETUC advances 4 urgent measures to tackle the current emergency:

EU institutions and agencies must be empowered to implement a genuine common policy for asylum and migration based on the respect of EU fundamental rights and international standards for the protection of migrants. EU institutions and agencies should be supported by adequate resources.

The refoulement of boat people should be replaced with the duty of search-and-rescue.

An EU Regulation shall remove any national legislation allowing prosecutions against those who provide assistance to people in need.

In areas exposed to disproportionate inflows, welcoming structures must be established under the EU umbrella, to help a more effective resettlement of migrants in

compliance with the Dublin II Regulation and in respect of fundamental rights as enshrined in EU law.

BACKGROUND

A European emergency

On 3rd October 2013, 366 migrants died after having crossed the Mediterranean on a precarious boat and a few meters from the coast of Lampedusa. It provoked a wave of indignation everywhere and threw a shadow of shame on the EU. Some national legislations do not make a definitive distinction between those providing humanitarian assistance or rescue at sea and “facilitators of unauthorized entries”. It creates further stress on the local population providing assistance to people in distress. Such wide solidarity shown by the local populations is at odds with the attempts of the institutions to criminalise people on their arrival without differentiating their status.

The Lampedusa event is one of the recurrent tragedies involving migrants on the borders of Europe, notably in the Mediterranean Sea. From Greece to Spain. New walls are created to impede people to circulate. The walls separating Spain from Morocco are equipped with blades which wound people (sometimes fatally), when attempting to climb over, exactly like the wall of a prison. Two kilometres of wall separate the Greek and Turkish borders in Evros. Thousands of migrants die attempting to reach Europe and are often depicted as criminals and treated as such. Migrants are too often deprived of their right to apply for international protection in a safe place¹. In many Member States asylum seekers are treated as criminals, and subject to long detention² often in inhuman conditions, whatever their status is. Operations of border patrolling run under the FRONTEX coordination are alleged not to do enough to abide by the European Fundamental Rights. ³

Migration flows will not stop

Despite a sharp reduction in detection of undocumented migrants between 2011 and 2012, the risks associated with illegal border-crossing along land and sea borders remain among the highest, in particular in the southern part of the EU. FRONTEX alerts that “crisis situations are still likely to arise at the southern border, with thousands of people trying to cross the border illegally in the span of several weeks or months. Past experiences also show that these crises take their toll on human lives, and are very difficult to predict and quell without a coordinated response”⁴.

But Europe is not new in challenging mass influx of displaced persons, as seen in the wars in former Yugoslavia in 1992 and Kosovo in 1998/1999. It resulted in European Council decisions aimed at sharing the burden for giving protection to displaced people by providing solidarity mechanisms that were then defined in the Directive 2001/55/EC on the temporary protection of displaced persons in the event of mass influx. Unfortunately, in recent times Member States have not made use of this instrument⁵.

1 The shooting of migrants in Greece this year (2013) tragically follows similar events in Naples and in Calabria in previous years. We all remember the 500 migrants rejected at Spanish border and dispersed in the Sahara desert. The buffer zones of Ceuta and Melilla are used to push back migrants, denying many of them the right to seek asylum or international protection.

2 In this document the word detention means all measures that are restrictive of the individual freedoms and aimed at forced retention or permanence of people in migrants' centres,

3 <http://www.ombudsman.europa.eu/en/press/release.faces/en/52487/html.bookmark>

4 See Frontex Annual report 2012 and the Annual Risk Analysis Report 2013.

5 Directive 2001/55 establishes minimum standards for giving temporary protection in the event of a mass influx of displaced persons and to take measures to promote a balance of efforts between the Member States in receiving them and bearing the consequences of receiving such persons. Such burden sharing mechanisms are activated on a Council Decision at the request of the European Commission or Member States.

The shame to which Europe is subject today seems to be due to the impoverishment of a genuine cooperation rather than a scaling up of the migration phenomenon. Considering the instability on the Southern Mediterranean coasts and in the Middle East, as well as the dramatic effects of the global economic and political crisis and environmental changes, mass influxes are expected to happen but remain rather unpredictable. However, there is and there will still be a huge number of people legitimately seeking protection in the EU, and the Union has the responsibility to open its area of freedom to people in need of protection⁶. For these reasons the European Commission is advancing common patterns for asylum, temporary protection of migrants and the opening of legal channels.

The EU's Southern borders are fragile. The patrolling and control of the sea borders is a burdensome exercise often exacerbated by the capacity of criminal organisations to redirect migrant flows there where they detect loopholes in the frontiers' control. FRONTEX's figures on detected irregular entries show how irregular flows change routes year on year in the attempt to dodge controls⁷.

Political instability at origin and transit countries, also as consequence of the series of Arab Springs, makes cooperation with such countries as necessary as it is uncertain in the time span needed to deliver concrete results. More urgent measures are needed to make the Mediterranean area a safe place (both for EU countries and for migrants) while implementing a global approach to migration and mobility⁸.

An enhanced EU policy for asylum

EU Asylum Policy has progressed fast in recent years. The EU acquis provides a legal framework in which Member States can operate in a spirit of cooperation and fairness toward third country nationals in full respect of the EU Charter of Human Rights and international conventions. EU agencies and programmes ensure an operative arm to the common policy⁹.

Such progress clashes with the attitude of national governments, which jealously guard their competences on a matter to which their citizens are quite sensitive. The European

6 See considerandum 2 of the Dublin Regulation II (REGULATION (EU) No 604/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast))

7 An example of this is the Greek border. In 2008, considerable numbers of migrants were detected crossing illegally the border between Turkey and Greece. The situation changed significantly in August 2012 when the Greek authorities mobilised unprecedented resources at their land border with Turkey. The enhanced controls along the Greek-Turkish land border led to a moderate increase in detections of illegal border-crossing in the Aegean Sea and between Bulgaria and Turkey. Many migrants move on to other Member States, mostly through the land route across the Western Balkans (6 390, +37%) (FRONTEX)

8 The Global Approach to Migration and Mobility (GAMM) is, since 2005, the EU's framework for dialogue and cooperation with non-EU countries of origin, transit and destination (COM 2011(743) final).

9 The Dublin Regulation provides rules and criteria to allow a sharing of the burden for refugees. European Directives set common standards for dealing with asylum and protection of migrants and set rights of refugees and their families or third-country nationals entitled to international protection.

The Common European Asylum System (CEAS) in the short-term sets a clear and workable method for determining the Member State responsible for the examination of an asylum application. In the longer term CEAS will bring to a common procedure and a uniform status, valid throughout the Union, for those granted international protection.

The European Asylum Support Office (EASO) established in 2010, should provide solidarity measures, such as the Asylum Intervention Pool with asylum support teams, to assist those Member States which are faced with particular pressure and where applicants for international protection ('applicants') cannot benefit from adequate standards, in particular as regards reception and protection.

The EU Agency FRONTEX promotes, coordinates and develops European border management in line with the EU fundamental rights charter applying the concept of Integrated Border Management.

institutions are called in only when Member States are in clear difficulty, offering the loathsome prospect of a discharge of responsibilities.

The will of Europe is the will of national governments. The scope of action granted to the European Commission and EU agencies is the scope assigned to them by the Member States. For a common policy releasing its full potential, the European Commission should be empowered with a clear mandate and adequate resources.

Part of the EU acquis can be improved to better fit with the changing characteristics of migration flows. Despite the Temporary Protection Directive 2001/55/EC, and Qualification Directive 2004/83/EC (on Refugees and Subsidiary Protection) at least 60 different non-harmonised forms of protection status exist, making it more difficult to examine the situation in each country or to ensure the respect of minimum protection standards for migrants¹⁰.

The EU mechanism to resettle asylum-seekers is far from optimal. This deprives migrants of the chance to reach their desired final destination, where they may have a family member, a friend, a sponsor or a job opportunity. Moreover, the lack of an effective resettlement mechanism for refugees is seen as a loophole in the common management of the Southern external borders of the Member States.

Displacement of refugees is still possible under the Dublin Regulation scheme, but statistics prove that the resettlement of asylum seekers is limited to a handful of cases. Closer cooperation between national authorities and the EU institutions can trigger mechanisms of mutual support, through a balanced approach taking into account the population and the labour market availability of each country and also alleviating the situation of member states subject to disproportionate influx.

The EUREMA programme shows that current rules can already be a sufficient legal basis for triggering burden-sharing programmes in full respect of migrants' rights¹¹. FRONTEX-coordinated operations in Greece have offered EU support to the Greek authorities to enhance patrolling and control of land and sea frontiers, also helping them to start restoring respect of human rights in the detention centres¹².

Facing the emergency in the Mediterranean area

In the aftermath of Lampedusa, both the European Council and the European Parliament took a position to give new impetus to the EU policies while calling the Member States to assume their responsibilities.

The EU Council, in the conclusions of the summit (European Council Conclusions 24/25 October 2013 Point V: Migration Flows), recognises it is crucial to help detect vessels and illegal entries, contributing to protecting and saving lives at the EU's external borders. The European Council invites the newly established Task Force for the Mediterranean, led by the European Commission and involving Member States, EU agencies and the European External Action Service (EEAS), to identify - based on the principles of prevention, protection and solidarity - priority actions for a more efficient short term use of European policies and tools.

Once again the European Parliament goes further and urges the European Union and the Member States to do more to prevent further loss of life at sea. Assisting migrants

¹⁰ EMN Study on "The different national practices concerning granting of non-EU harmonised protection statuses (2010)

¹¹ EUREMA (Pilot Project for Intra-EU Relocation from Malta) provides an organised framework for preparing and implementing relocation. The projects also provided funding for participating countries. In phase I and II, about 600 migrants have been relocated in 20 (EU and non-EU) European Countries.

¹² Frontex-Coordinated JOs (Aeneas, Hermes and Poseidon Sea)

in distress and rescue at sea are among the key priorities of the implementation of the newly adopted EUROSUR system¹³.

The European Economic and Social Committee stresses a duty to guarantee immigrants' human rights, be it in detention or whilst on the high seas

Despite this progress achieved, the EU policy on migration and asylum suffers from evident shortages. The previous two chapters reveal domains in which EU instruments (legislation, policy measures and operational programmes) are not appropriate to effectively tackle the current problems and emergencies.

It can be attributed to some factors, inter alia:

- The attitude of Member States which show little interest in cooperating at European level. The commitments adopted in the above mentioned Council Conclusions appear more formal than substantial;
- The EU acquis is still too fragmented to produce satisfactory levels of harmonization or establishment of common standards. But most of all, the current EU legislation is formally transposed but barely enforced;
- Resources for operative actions at European level are insufficient compared to the size of the challenges that the EU commission and its agencies have to cope with.

ETUC RESOLUTION

Due to the inadequacies mentioned above, an ETUC resolution is needed on the specific topic addressed by the background analysis and on the basis of the general principles set by the ETUC Action Plan on Migration (adopted in March 2013).

The Action Plan affirms that in recent years we have witnessed an indiscriminate disregard of the fundamental international rules for asylum seekers and refugees as well as violations of the UN Geneva Convention. Member States cannot waive their responsibility vis-à-vis the international community and even more importantly vis-à-vis the obligation to respect human lives for those seeking protection or asylum.

The ETUC asks the EU to act as an example at global level and encourages Member States to ratify and enforce international standards protecting migrants and their families

The following points are for adoption by the Executive Committee.

ETUC POSITIONS

The ETUC affirms that greater cooperation among Member States on the international protection of refugees is a long-standing feature of migration policy. Member States cannot waive their responsibility vis-à-vis the international community and even more importantly vis-à-vis the obligation to respect human lives and human rights for those seeking protection. These objectives can be better achieved through the revision of the Dublin 2 Regulation¹⁴. Current procedures for resettlement under the Dublin II Regulation do not provide sufficient grounds for asylum-seekers to have his/her application for resettlement re-examined. Furthermore, the Regulation does not provide a solid basis for solidarity and mutual trust among Member States.

¹³ EUROSUR is the European Border Surveillance System, which establishes a mechanism whereby Member States' carrying out border surveillance can cooperate and share operational information with one other and with FRONTEX.

¹⁴ REGULATION (EU) No 604/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013 establishing criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)

The ETUC stresses that progress achieved so far in terms of solidarity between Member States and fairness toward migrants has progressed at a slower pace compared to the magnitude of events on the opposite shores of the Mediterranean.

The ETUC calls for an enhanced policy on economic and social development with the sending countries in order to create the conditions for proper human development in less developed areas of the world thereby eliminating the reasons for forced migration.

The fight against human trafficking should be pursued without hesitation. Directive 2011/36/EU must be implemented and enforced in all Member States. A proper enforcement of the Employers' Sanction Directive¹⁶ should be a deterrent for traffickers, and a shelter protecting victims from exploitation at work. Employers must ensure appropriate remuneration and migrants should have the right to be assisted to effectively claim their rights.

The ETUC calls for greater transparency in ensuring legal channels for those in need of protection. In 2012, only 20% of applications for international protection submitted resulted in a positive decision. Too often Member States deny the right to international protection (ex. asylum permits) on a discretionary basis and for reasons other than the individual position of the applicant (for instance, when requests outnumber the permits they planned to release in any given year). Delivery of permits for reasons of international protection cannot be capped or subject to quotas but based on objective assessment of the situation of the person seeking international protection and the situation in his/her country of origin.

Furthermore the ETUC deplors criminalization of undocumented migrants, especially when exposed to degrading treatment or illegitimate detention. Undocumented migration, especially with the purpose of asylum seeking, can never be considered as a criminal offence and treated as such. Member States that adopted legal provisions in this sense should modify them and the EU Commission should monitor the process.

Within the context of the problems linked to third-country migration control, the ETUC strongly condemns every measure or means used which endangers human dignity or people physical integrity. We are particularly opposed to the means used today by the Spanish government – for ex. the use of blades to prevent immigration of people from the African continent.

Asylum applications should be processed within a limited and proportionate period of time and such a procedure should never imply illegitimate detention. Right of appeal against refoulement should be guaranteed.

The ETUC calls on all Member States to assume their responsibilities and show greater cooperation with EU institutions. EU initiatives and programmes should provide support and additional resources, and not replace responsibilities incumbent on member states. EU programmes and agencies should be made accountable to stakeholders to be sure they abide by fundamental rights of migrants when performing their tasks.

The ETUC maintains that any action implemented either in the framework of EU asylum and migration policies or by single Member States must be always respectful of human rights as enshrined in international law. The ETUC reiterates the call for the

15 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

16 Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals

ratification of the UN Convention on protection of the rights of migrants and their families.

Cooperation with origin or transit countries is necessary in the framework of the global approach to migration in order to prevent irregular flows and tackle trafficking of human beings. Partnerships or agreements, concluded by either the EU or a Member State, should be conditional to the fact that the concerned third-country adheres to the international convention on human rights and fundamental rights of migrants and is in a position to ensure their enforcement. Euro-Mediterranean cooperation can be a platform enabling better management of migration flows and more effective tackling of humanitarian emergencies.

Member States should facilitate beneficiaries of temporary protection tools to obtain a different migration status when their protection scheme arrives to an end. Thus Directive 2011/51/UE must be transposed and enforced in all member states.¹⁷

The common migration asylum and migration policy is recent and therefore the scope of action of the European institutions has not been exploited to its full potential yet. The community method should prevail and the European Parliament should find a new centrality. It will allow a more transparent governance and greater involvement of stakeholders.

The ETUC supports the European Parliament resolution when it:

- Underlines the importance of responsibility-sharing to reduce the pressure on those Member States receiving higher numbers of asylum seekers and beneficiaries of international protection, in either absolute or proportional terms
- Supports the Commission's proposals to deploy a search-and-rescue operation from Cyprus to Spain and to strengthen FRONTEX by increasing its budget and capabilities;
- Calls for the Union and its Member States to consider the possibility of establishing mechanisms for identifying places of safety for the disembarkation of rescued refugees and migrants where disembarkation does not necessarily imply sole responsibility on the part of the state on whose territory people rescued at sea are disembarked;
- Recalls that EU solidarity should go hand in hand with responsibility and that the Member States have a legal obligation to come to the assistance of migrants at sea;
- Calls for the EU and the Member States to amend or review any legislation sanctioning people assisting migrants in distress at sea to clarify that the provision of humanitarian assistance to migrants at sea who are in distress is to be welcomed, and is not an action which should ever lead to any form of sanction;
- Calls on the Member States to respect the principle of non-refoulement, in compliance with existing international and EU law and put an immediate end to any improper and extended detention practices in violation of international and European law, and points out that measures to detain migrants must always be subject to an administrative decision, and must be duly substantiated and temporary.

17 DIRECTIVE 2011/51/EU of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection

ETUC PROPOSALS: FOUR URGENT MEASURES TO TACKLE CURRENT EMERGENCY

Having drawn general principles and the long-term measures needed, some actions are more urgent because next year thousands more migrants will start crossing the Mediterranean Sea again. The four proposals below are aimed at removing rigidities in the current policies which become reasons for not assisting people in distress or to accept deaths that can be actually avoided.

FIRST PROPOSAL: EU institutions and its agencies must be empowered to implement a genuine common policy for asylum and migration and resources must be adequate to the tasks charged on them. They must be bound and made accountable to respect fundamental human rights as enshrined in the European Treaties.

The Treaties and secondary legislation clarify responsibilities between Member States and the EU. More Europe means more material resources and autonomy in managing them. EU institutions and agencies work with the facilities made available by Member States but they must go along with a greater budget to be autonomously managed. It would also have greater impact on the accountability of different public and private stakeholders that operate in this specific domain.

SECOND PROPOSAL: Replacing the pushing back of people boats with the duty of search-and-rescue in the sea.

The EU principle of non-refoulement, even though enshrined in article 78 TFEU is too often disobeyed. It includes also the “duty of rescue”, which is often denied, pretending not to sight boats adrift. The supreme principle remains the protection of human lives. The fact that criminal organisations attempt to gain advantage from this fundamental value cannot be a reason for waiving it. We will continue to be the EU, if we are able to put victims’ protection at the forefront.

THIRD PROPOSAL: An EU Regulation shall remove any national legislation allowing prosecutions against those who provide assistance to people in need.

It is possible to discern traffickers and facilitators from those providing assistance to people in need. It is not acceptable that whoever assists a person in need could be at risk of criminal or administrative sanctions. Based on art. 78 of the TFEU and on the EU Charter of Fundamental Rights, an urgent legislative initiative has to be undertaken, in order to ban any form of persecution for those who provide rescue to migrants at risk of life or to remove them from a situation of danger.

FOURTH PROPOSAL: Implementation of a programme called FRONTAID aimed at creating welcoming structures under the EU umbrella in areas exposed to disproportionate inflows in compliance with the respect of fundamental rights as enshrined in the EU law.

Under a specific project run by a EU agency, a number of welcoming structures should be established in Member States along the most exposed areas as the European Mediterranean shores. Under the FRONTAID programme, disembarked migrants would fall under the responsibility of the EU until all the preliminary procedures have been processed and then assigned to the competent Member State. The disembarkation of migrants (whose actual status is not detectable at the initial stage) does not trigger the “sole responsibility” mechanism, which assigns the migrant (and consequently any kind of procedure including the concession of asylum) to the concerned country.

The setting up of such FRONTAID welcoming structures would encourage search-and-rescue actions and discourage refoulement of migrants at sea. It would assist factual solidarity enabling intra-EU resettlement of asylum seekers according to the Dublin II

Regulation provisions. It would speed up all the procedures concerning asylum and will avoid cases of illegitimate detention of the applicants.

Such welcoming structures will:

- Provide first-aid assistance;
- Start and manage procedures concerning identification of migrants;
- Proceed to a preliminary examination of an asylum application in order to point out the competent member state according to the Dublin II Regulation
- Cooperate with the competent member state to instruct an application for other kind of permits;
- Supervise the triggering of return procedures, when needed.

Such structures should take in charge migrants and namely those who are rescued in international waters (or found to cross land borders under dangerous conditions) and should aim to alleviate the position of states facing disproportionate influxes. They can also be pre-alerted in situations of humanitarian emergencies to anticipate predictable difficulty. Such structures are coherent with the efforts made for a more integrated and reinforced administrative cooperation to manage migration policies as EASO and FRONTEX, and with the involvement of the UNCHR, the FRA and relevant stakeholders.

FOLLOW UP

The ETUC and its affiliates will submit the positions and proposals in this resolution to the EU Commission, the competent EU agencies, the EU Parliament and Council, the member states' governments and any other competent authorities, in order to achieve the objectives of trade unions' strategies in the fields of refugees' and asylum-seekers' migration.

ETUC position on the European Commission communication on Strengthening the social dimension of Economic and Monetary Union

Adopted at the Meeting of the Executive Committee on 3-4 December 2013

In our Social Compact for Europe, adopted in June 2012, the European Trade Union Confederation (ETUC) emphasised that Europe's social dimension must be an integral part of economic and fiscal governance and be given equal footing. Following the European Council's request that the Commission should, among others, further develop 'the social dimension of the EMU, including the social dialogue', the ETUC Executive Committee adopted its position on '*the social dimension of the European Union*' (April 2013), as a further contribution to this debate.

ETUC priorities for a social dimension of the EU are:

1. Stop cuts in public spending, social protection and wages. They are unfair, they increase unemployment, inequalities and poverty and they worsen recession.
2. Stop competition on wage and working conditions. Stop tax competition, tax fraud, tax evasion. The EU is not only a free trade zone. It aims at full employment, economic and social progress.
3. Put the emphasis on investments for sustainable growth and employment.
4. Promote social dialogue and collective bargaining at all levels.

In response to the European Council's request, on 2 October the European Commission adopted a Communication on Strengthening the Social Dimension of the Economic and Monetary Union. For the ETUC the issue at stake is whether the EMU can have a social dimension capable of balancing economic policy with Europe's social objectives. Our overall assessment of the Communication is that the proposals presented will do little to achieve this.

This position paper responds to the proposals set out in the Communication in the context of the EMU, however the ETUC has stressed that a discussion on the social dimension of the EMU must trigger social progress in the whole of the EU.

The Commission's adoption of the Communication on Regulatory Fitness and Performance (REFIT) on the same day as the Social Dimension Communication was not lost on us. We condemn this further advance in the Commission's deregulatory approach which amounts to a frontal attack on a range of social rights. For example, there will be no new European Health and Safety Strategy before 2015 and the Commission also seeks to weaken legislation on information and consultation of workers. The disregard for Treaty provisions on the social dialogue, in particular blocking the European Framework Agreement on the Protection of Occupational Health and Safety in the Hairdressing Sector, is unacceptable. The ETUC is also appalled at the current lack of initiatives to establish a level playing field for workers' protection.

The Commission proposes to strengthen the social dimension of EMU in four respects: stronger multilateral surveillance and policy coordination of employment and social policies, greater financial solidarity, enhanced action on employment and labour mobility, and a stronger social dialogue.

The ETUC supports the objective of improved surveillance and better coordination of employment and social policies. The Commission suggests that this can be achieved through the addition of auxiliary indicators to the macroeconomic imbalance procedure (MIP) and the development of a scoreboard of key employment and social indicators to be used as part of the European Employment Strategy. The Commission also

proposes a stronger coordination of employment and social policies within the European Semester, using existing monitoring tools, complemented by the scoreboard, based on benchmarking and best practice promotion.

The proposed scoreboard, while possibly improving analysis of social issues, will be powerless to correct economic policy even when the analysis shows that this will lead to negative consequences for the employment and social situation. The ETUC continues to insist that a mechanism must be introduced that enables macroeconomic policy to be corrected as necessary.

The ETUC takes the view that economic and social factors are inseparably linked. Social indicators are already in use but are given little priority. They are, however; essential points of reference if economic and monetary union is to move forward in a coherent and socially positive way. Improved indicators could result in a more systematic monitoring and analysis of employment and social trends across Europe.

The Commission has proposed five headline indicators for the scoreboard: unemployment rate; share of young people not in education; employment or training (NEET) and youth unemployment rate; real gross household disposable income; at risk of poverty rate and inequalities. These are lagging indicators which confirm long-term trends and the ETUC believes that the analytical value of the scoreboard could be greatly enhanced by the introduction of leading indicators. This would provide greater scope for preventative policy measures rather than trying to implement corrective ones once the damage is done. However, despite our requests, the European social partners have not so far been consulted on the development of these indicators.

The ETUC proposes that indicators should be considered for inclusion in the scoreboard: for example, employment / unemployment figures, showing the in-work poverty rate; the share of low wages; part time or fixed-term employment work in employment; profit share; involuntary part-time or fixed-term employment; long-term unemployment; access to education and training; expenditure on active labour market policies; wage inequality between women and men; health and safety at work; and social protection expenditure. This list is not exhaustive. The European Parliament has also called for the inclusion of additional indicators, including a 'decent work index'. The Commission should give consideration to developing such an index. All indicators must be gender sensitive and the data supporting them should be gender disaggregated to demonstrate relevant gender gaps and gender-specific impacts.

The ETUC supports economic solidarity in the EU, a good example of it being structural funds, but also European investments directed particularly to countries in difficulty.

In the context of developing greater financial solidarity based on responsibility, the Commission returns to its idea for a Convergence and Competitiveness Instrument (CCI) or so-called "contractual arrangements". Contractual arrangements have been put in place undemocratically and have imposed the wrong policy mix. They have infringed collective agreements, industrial relations and social dialogue. The ETUC is opposed to such contractual arrangements. The experience of Member States subject to the Troika's programmes is that such contractual arrangements are often linked to wage cuts, the lowering of workers' protection and weakening of social relations. The Memoranda of Understanding have breached the principles and spirit of the European Social Acquis, including the Charter of Fundamental Rights and key ILO Conventions. The ETUC is opposed to contractual arrangements which would roll out such policies across the EU. The ETUC is also concerned that access to structural funds could be made conditional on carrying out such structural reforms, to which we are clearly opposed.

The ETUC supports mobility for workers and European citizens. Mobility can contribute to an individual's employment prospects but will not resolve Europe's economic and

social crisis. The Commission advances the premise that labour mobility can act as an adjustment mechanism for the EMU to respond to asymmetric shocks. The ETUC insists that mobility should be voluntary and take place within a framework of respect for labour rights, including collective agreements, and the application of the principle of equal treatment. The ETUC unequivocally condemns those employers who use quasi slave labour.

The 'brain drain' is a major problem for countries in difficulties; it has a severe impact on their economies, fiscal revenue, public and other services, as well as the social fabric. More should be done to provide the necessary investment to foster job creation, develop quality and accessible public services and generally improve living standards, particularly in areas of high unemployment.

National automatic stabilisers have come under severe strain as a result of the crisis. The ETUC will further reflect on the implications of Convergence and Competitiveness Instruments (CCIs) and automatic stabilisers. The ETUC agrees that every European should be guaranteed a social protection floor with universal access to health care, income support, subsistence security and decent pension on the basis of minimum standards. The ETUC reiterates its demand for a legal framework on restructuring. The ETUC supports the introduction of a social minimum income in every Member State on the basis of common European principles and calls on the Commission to take the appropriate initiative.

The ETUC welcomes the emphasis on the need to strengthen the role of social dialogue at EU and national level and to better involve the social partners in economic governance. The joint declaration on the social partners' involvement in European economic governance should act as a reference in this respect. The ETUC is open to discuss proposals from the Commission on what can be done to give weight to social indicators.

While scope for improvement remains, some progress has been made at European level. For the past two years the European social partners have been consulted prior to the publication of the AGS and, this year, while not fully acceding to our request to annex our respective views to the AGS, the Commission has nevertheless included links to the European social partners' contributions on the main 2014 AGS web page. We also welcome the improved dialogue with the Employment Committee (EMCO) and the Social Protection Committee and their willingness to explore how to further develop this.

However, the national social partners' involvement in the European Semester remains wholly inadequate and must be improved. Member States should consult the national social partners in a timely and effective manner in the preparation of their National Reform Programmes and Job Plans. The Commission should monitor this and ensure that it is happening. If requested, the views of the social partners should be annexed to the NRPs and in the event that a common position does not exist, both opinions should be included. The Commission should also meet with the social partners, jointly or separately, during country visits to discuss the forthcoming country specific recommendations.

The ETUC agrees that the macroeconomic dialogue (MED) and the Tripartite Social Summit (TSS) need to be improved. As a starting point, an in-depth analysis is needed on how to improve the outcome of these meetings. The ETUC believes that there is scope to use the Social Dialogue Committee to improve the social partners' involvement in the European Semester. However, the autonomy of the European social partners must be respected and the SDC should not become a forum just for discussions on the European Semester.

The ETUC is prepared to discuss how to improve the social dialogue in the context of the European Semester. However, the current state of play regarding the sectoral

social partners' framework agreements on health and safety in the hairdressing sector and on the organisation of working time in the inland waterways sector is an unacceptable infringement of the autonomous social dialogue. This casts severe doubts on the Commission's sincerity in wishing to strengthen the social dialogue in general.

ETUC resolution Stop the deregulation of Europe: Rethink Refit

Adopted at the meeting of the Executive Committee on 3-4 December 2013

With the publication of REFIT (Regulatory Fitness and Performance: Results and Next Steps) on 2 October 2013, the Commission took yet another step in a process aimed at the deregulation of Europe, the dismantling of legislation protecting workers' rights and the weakening of social dialogue.

The Council decision in December 2011 to exclude micro-enterprises from the scope of the new legislation, unless it could be demonstrated they should be covered, only triggered the next step, which was Top Ten, the infamous Commission consultation where small companies were invited to complain about EU legislation.

Incidentally, the Commission suggested companies complain about directives protecting workers' rights such as the directives on workers' health and safety including, not only REACH (Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals), the Posting of Workers, Working Time, Temporary Agency Work, but also the social partners' Framework Agreement on Parental Leave.

To make matters worse, the Commission is using the results of the consultation to underpin calls for further deregulation. The directives, preselected by the Commission, are now presented as the most burdensome pieces of EU legislation according to SMEs. The Top Ten consultation has created a self-fulfilling prophecy.

This deregulatory drive also seeks to change our perception of the law. Legislation has become synonymous with administrative burdens. Another example is the idea of gold-plating. Member States going beyond the minimum level when implementing a directive are accused of gold-plating. This undermines legislation in the area of social policy and workers' health and safety. They are all minimum directives – that is the whole point. Governments agree on minimum standards, a minimum floor that nobody should go below, but preferably beyond. If having higher standards is seen as gold-plating, there can be no social progress in Europe.

Some policymakers even treat regulation as a zero-sum game by setting net targets for legislation or adhering to the principle of "one in, one out", so that a new piece of legislation, regardless of how important it is, can only be introduced if another one is removed.

Regulatory Fitness and Performance (REFIT)

According to the Commission, the purpose of REFIT is to systematically review EU legislation to ensure that "aims are being met in the most efficient and effective way, to detect regulatory burdens and to identify opportunities for simplification".

In practice, it means that the Commission is withdrawing its proposal for a directive on musculoskeletal disorders and the revision of the Carcinogens Directive - the two key legislative challenges regarding workers' health and safety. According to the European Working Conditions Survey (2010), the gap between national situations is particularly worrying for a large number of indicators. The divide is even sharper within countries. When asked if they will be able to do their current job when they are 60 years old, less than 60% of workers thought they would.

The overall situation has deteriorated for all manual workers. The ETUC urges the Commission to change its policy and to follow the indications proposed by the

European Parliament for revitalising EU health and safety policy. To claim that the crisis renders the adoption of a new strategy pointless is a flawed argument. The experience of other crises shows that they actually force working conditions down so that health and safety at work policies are essential to offset the harm. We urge the Commission to adopt a strategy on health and safety at work before the end of 2013 and to present, without further delay, proposals on the protection of workers against work-related cancers and musculoskeletal disorders. Studies show that the cost of not having any kind of occupational health and safety policy would amount to 3-5 per cent of GDP.

Workers' rights to information and consultation is also targeted by REFIT. The Commission is envisaging a consolidation of the three directives Framework for Information and Consultation, Collective Redundancies and Transfer of Undertakings, which were subject to a so-called fitness check.

The ETUC considers that the (European) minimum standards laid down in the three directives constitute a floor, and not a ceiling, of rights, and continues to be sceptical about a consolidation exercise since the three directives serve different purposes, a general one (establishing a framework for I&C) and specific situations such as mass redundancies and the transfer of undertakings. Furthermore, the three directives each have a different legal basis. The ETUC supports the strengthening of information, consultation and participation rights and is not convinced that this would be achieved by merging the three directives.

Not only is REFIT used as an excuse to get rid of various pieces of legislation, but it is also a serious attempt to destroy the social dialogue and the whole social acquis. By refusing to present the social partner agreement on the Protection of Occupational Health and Safety in the Hairdressing Sector to the Council, the Commission is not fulfilling its function as the guardian of the treaties. It should promote the role of the social partners and respect their autonomy.

Furthermore, President Barroso has himself declared that safety norms for hairdressers are not an issue to be regulated at European level. His personal view is, however, of little relevance. His job is to ensure that social partner agreements are implemented at the joint request of the signatory parties by a Council decision on a proposal from the Commission (Article 155, TFEU).

REFIT also lists ongoing evaluations of social partner agreements such as the directives on part-time work and fixed-term work. The ETUC has already stated that it does not want to introduce any amendments to these directives at this point in time. Moreover, framework agreements negotiated by the social partners do take into account the specific characteristics of SMEs.

The deregulatory agenda is also driven and supported by the European Council. In its conclusions of October 2013, the Council welcomed REFIT and demanded further ambitious steps to make the EU regulatory framework lighter. It will return to this issue at its meeting in June 2014. Meanwhile, the Competitiveness Council met on 2 December 2013 to finalise its conclusions on smart regulation demanding a roadmap to reduce the overall regulatory burden over the next five years.

Trade Union Actions

The ETUC together with its affiliates will have to step up efforts to expose the fact that smart regulation is really about deregulation threatening the autonomy of the social partners, occupational health and safety protection for workers and information and consultation rights. Smart regulation is not about making legislation more effective or making sure that directives are properly implemented in EU Member States. Nor does it consider the benefits of legislation to society at large. Smart regulation is rather, an

attempt at rolling back the role of the state in the belief that companies can self-regulate. This has to be stopped.

In the framework of its campaign for “A new path for Europe”, ETUC will fight against REFIT and raise awareness of the issues at stake. In view of the upcoming elections to the European Parliament in May 2014 and the ETUC manifesto, we will inform the candidates of the ETUC position and convince them to support our fight against deregulation. We will also have to engage our members so that they make use of their right to participate in the elections and vote for those candidates that defend workers’ rights.

However, the pressure to deregulate also stems from the national level. A number of governments, including the UK, have taken the lead in pushing for further deregulation. Activities at the national level are particularly important. Affiliates are requested to contact their governments to try to influence their positions. Affiliates are also encouraged to use the ETUC graphics and to organise events with politicians including workers affected by legislation that is under threat, stalled or withdrawn.

At the same time, it should be emphasised that the ETUC is in favour of making regulation more effective. We therefore call on the Commission to divert its focus from reducing legislation and instead improve the quality of it. The Commission and Council should consider how rules and regulations can best be designed to meet their objectives and, in particular, take measures to ensure that EU legislation is properly implemented in the Member States.

ETUC POSITION ON THE PROPOSED CONSOLIDATION OF THE THREE DIRECTIVES ON INFORMATION & CONSULTATION, COLLECTIVE REDUNDANCIES AND TRANSFER OF UNDERTAKINGS

Adopted at the Executive Committee Meeting of 3-4 December 2013

Introductory remark

In a Resolution adopted on 23 October 2013: “Strengthening information, consultation and participation rights for all workers” the ETUC suggests the following concrete proposals for a revision of the general Framework Directive 2002/14:

- *the ETUC calls for application to all workers including public service workers, civil servants and seafarers;*
- *the ETUC calls for bringing the Directive 2002/14 in line with the better standards (definitions etc.) contained in the EWC Recast (2009/38) and the SE Directive (2002/86/EC);*
- *Importance of stronger consultation rights with a view to reach an agreement via a meaningful dialogue before any decision can be finalised;*
- *the information-consultation must imply the value chain: upstream suppliers, subcontractors, dependent companies downstream;*
- *the Directive should grant employees’ representatives a right to expertise;*
- *the ETUC calls for anticipatory management of employment and competences and to address mid- and long-term corporate strategies aimed at reinforcing internal and external employability: for instance, an annual reflection on the strategic development of a company (or public service) in 5, 10 years to prepare for the change;*
- *strengthening workers’ board-level representation (where applicable) to receive complete information on strategic choices before the decisions are taken, and to increase the control and influence workers have on the strategic decision-making process within a company or public service;*
- *effective and strong sanctions in case of serious violation of information and consultation rights.*

ETUC position

The ETUC Executive Committee considers the (European) minimum standards laid down in the three directives as a floor of rights and not as a ceiling of rights and continues to be sceptical about a consolidation exercise as the three directives serve different purposes, a general one (establishing a framework for IO&C) and specific situations such as mass redundancies and the transfer of undertakings. Furthermore, the three directives have different legal grounds. The ETUC supports the strengthening of information, consultation and participation rights and is not convinced that this would be achieved by merging the three directives.

On the Directive on a general framework for Information and Consultation (2002/14/EC of 11 March 2002), further to the demands laid down in the resolution “Strengthening information, consultation and participation rights for all workers” (including the demand to strengthen the representation of workers on company boards where appropriate), the ETUC asks:

- as a first step, for the lowering of the threshold for a) undertakings employing at least 50 employees down to 30 and b) establishments employing at least 20 employees down to 5;
- special dismissal protection for employee representatives;
- the concretisation of efficient sanctions.

On the Directive on the Transfer of Undertakings (2001/23/EC of 12 March 2001), the ETUC demands:

- its application to public administrations;
- the extension of the scope to cases of shares' sales, division of companies, mergers of public limited liability companies;
- that employees' representatives are granted the right to expertise
- the clarification that employee representatives in Art. 2 include trade unions;
- the setting up of a joint meeting between the worker representatives of the involved companies (transferor and transferee), in particular the Works Councils, the EWCs and the worker representatives on the respective company boards (where appropriate), stronger information and consultation rights for EWCs and/or national Works Councils and stronger participation rights for workers representatives in supervisory and/or administrative boards, where trade unions want it;
- the concretisation of efficient sanctions.

On the Directive on Collective Redundancies (98/59/EC of 20 July 1998), the ETUC demands:

- an information obligation towards employees, also in cases where no employee representation exists;
- timely information and consultation (without delay after notification to the public authorities);
- the concretisation of efficient sanctions.

Background

The three directives on the Framework for Information & Consultation (2002/14/EC of 11 March 2002), Collective Redundancies (98/59/EC of 20 July 1998) and Transfer of Undertakings (2001/23/EC of 12 March 2001) came under the "Fitness Check" inspired by the Stoiber Group within the framework of the better regulation agenda. The ETUC participated in a Commission working group on the "Fitness Check," which at its last meeting in 2012 concluded that the three directives were "generally fit for purpose". This conclusion was driven by the ETUC which, nevertheless, pointed out several possibilities for the improvement of the existing directives (by better definitions of information, consultation etc.) as well as the Member States and Business Europe.

During the summer break a Commission staff working document on the "Fitness Check" of the three directives (26 July 2013), still supporting the conclusion that the directives are "broadly fit for purpose", proposed in parallel a "consolidation". A few weeks later another staff working document on REFIT (1st August 2013), and even more explicitly a Commission communication (2nd October 2013), no longer supported the joint conclusion on "fit for purpose" but pleaded for the "consolidation of the three directives" into a single one. No explanation was given as to why the Commission had changed its mind.

The Commission focussed on the "Fitness Check" on "information and consultation (I&C) of workers". The Commission upholds, as consequence, drawn from this "Fitness Check" in its Staff working document, the following analysis covering the mainly I&C topics:

- “50% of employees’ representatives replied that they see uncertainties/inconsistencies in the I&C legislation”; 62% are “in favour of a rationalisation of existing legislation” (“rationalisation’ may imply more regulation for employees”) and 40% express strong support for “additional legislation”;
- The “ETUC considered that it would be useful to examine the possibility of a recast by taking the definitions of the Directives on European Works Councils or SE, which they perceive to be better”;
- “stakeholders at company level hold a more critical opinion about uncertainties or inconsistencies, gaps and practical problems relating to I&C legislation and express the view that some effort of simplification and consolidation might be justified”; “such concerns deserve serious consideration and further discussion”;
- It is necessary to address shortcomings as a large number of the establishments covered do not have I&CF bodies: only 1.3% of the total number of undertakings are covered (due to the threshold of 50 or more employees making up only 1.3% of the total across the EU27);
- the exclusion of SMEs (only one out of three employees in small establishments is covered by a formal I&C body), gaps/inconsistencies relating to the scope of application, regarding namely the public administration and seafarers;
- “the effective protection of employees’ rights through the nullity of employers decisions taken in breach of the I&C requirements”
- the promotion of consistency among all directives in the area of I&C;
- the European Economic and Social Committee in its “opinion of 20.3.2013 called for a more effective formulation of I&C rights in European law, and suggested that serious consideration be given to the extent to which consolidation in a single European framework directive could at least ensure greater standardisation of the various definitions of information and consultation and, where applicable, participation in company boardrooms as well”;
- differences among certain definitions of the three I&C Directives in comparison to the Directives on EWC or SE;
- “an extensive definition of the concepts ‘information’ and ‘consultation’ in Directive 2002/14/EC, in line with the transnational I&C Directives on European Works Councils and European Company, would arguably improve consistency among all I&C Directives”
- updating of the Directives 2001/23 and 98/59;
- setting up the framework for the anticipation and management of corporate restructuring;
- address limited, bureaucratic or formal involvement, particularly with respect to consultation on employers’ decisions involving contractual flexibility and restructurings;
- the use of different wording for similar provisions;
- Directive 2002/14 merely lays down procedural standards, there is no obligation to attain a certain result, for example preparing “anticipative and forward-looking plans on employment and skills’ needs or social plans in the event of restructurings”;
- there is no “requirement for redundancies to be made only as a last resort”;
- the Commission’s original proposal “that workers are informed even in the event that there are no workers’ representatives” not upheld by the Council;
- “the three I&C Directives are broadly fit for purpose”, “this general conclusion is consistent with the view of the European social partners and Member States’ positions expressed in the ad hoc Working Group on ICW”;
- the promotion of transnational company agreements (following the Commission Staff Working Document on “Transnational Company

Agreements: fresh perspectives for social dialogue” and the report in the European Parliament); etc.

In the United Kingdom a policy paper “Cut EU red tape: Report from the Business Taskforce” (published 15 October 2013) made a strong plea that existing legislation on I&C “should not be extended to micros, and no new proposals or changes to existing legislation should be made”, as “further action in this area would be costly to business, without adding any real value”. This statement against change was addressed to the European Parliament which asked for new legislation to better tackle restructuring. Furthermore, the Acquired Rights Directive enacting the Transfer of Undertakings Directive into UK law) was assessed in the UK policy paper as “going too far” with the recommendation to allow “more flexibility to change contracts following a transfer”. The paper regrets explicitly that changing the terms of staff who are transferred to less favourable conditions “is not permitted”.

The ETUC Executive Committee of 23 October 2013, while protesting against the violation of information and consultation directives in the case of the shutdown of the Greek public radio and television ERT (whose building was stormed by security forces on 7 November 2013) opposed steps in the wrong, deregulatory direction and made some constructive proposals for steps in the right direction, with a view to strengthening information, consultation and participation rights. However, it was not possible at that time to react to the two other directives. Therefore, the ETUC has had to come back to them.

In the meantime, the Commission announced that a social partners' consultation on the proposal for consolidation will take place in the first trimester of 2014. The Commission let its intentions be known at meetings of the Social Dialogue on 8 October (European Sectoral Social Dialogue Committee for the Central Government Administrations, EUPAE) and 15 October 2013. The ETUC working group on 13 November had a first exchange of views on the issue and charged the ETUC secretariat to prepare for such a consultation. Therefore the ETUC complements its demands in view of a possible consolidation exercise.

Definitions of information – consultation & participation

<p>SE Directive (2001/86/EC of 8 October 2001)</p>	<p>"information" means the informing of the body representative of the employees and/or employees' representatives by the competent organ of the SE on questions which concern the SE itself and any of its subsidiaries or establishments situated in another Member State or which exceed the powers of the decision-making organs in a single Member State at a time, in a manner and with a content which allows the employees' representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare consultations with the competent organ of the SE;</p>	<p>EWC recast (2009/38/EC of 6 May 2009)</p>	<p>"information" means transmission of data by the employer to the employees' representatives in order to enable them to acquaint themselves with the subject matter and to examine it; information shall be given at such time, in such fashion and with such content as are appropriate to enable employees' representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare for consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings (Art. 2)</p>	<p>Framework I&C (2002/14/EC of 11 March 2002)</p>	<p>"information" means transmission by the employer to the employees' representatives of data in order to enable them to acquaint themselves with the subject matter and to examine it (Art. 2)</p>	<p>Collective redundancies (98/59/EC of 20 July 1998)</p>		<p>Transfer of undertakings (2001/23/EC of 12 March 2001)</p>	<p>The transferee and transferee shall be required to inform the representatives of their respective employees affected by the transfer of the following:</p> <ul style="list-style-type: none"> - the date or proposed date of the transfer, - the reasons for the transfer, - the legal, economic and social implications of the transfer for the employees, - any measures envisaged in relation to the employees. <p>The transferee must give such information to the representatives of his employees in good time, before the transfer is carried out.</p> <p>The transferee must give such information to the representatives of his employees in good time, and in any event before his employees are directly affected by the transfer as regards their conditions of work and employment. (Art. 7.1)</p>	<p>Definition of information</p>
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<p>"consultation" means the establishment of dialogue and exchange of views between the body representative of the employees and/or the employees' representatives and the competent organ of the SE; at a time, in a manner and with a content which allows the employees' representatives, on the basis of information provided, to express an opinion on measures envisaged by the competent organ which may be taken into account in the decision-making process within the SE;</p>	<p>"consultation" means the establishment of dialogue and exchange of views between employees' representatives and central management or any more appropriate level of management, at such time, in such fashion and with such content as enables employees' representatives to express an opinion on the basis of the information provided about the proposed measures to which the consultation is related, without prejudice to the responsibilities of the management, and within a reasonable time, which may be taken into account within the Community-scale undertaking or Community-scale group of undertakings (Art. 2)</p>	<p>"consultation" means the exchange of views and establishment of dialogue between the employees' representatives and the employer (Art. 2)</p>	<p>consultations with the workers' representatives in good time with a view to reaching an agreement (Art. 2) - consultations shall, at least, cover ways and means of avoiding collective redundancies or reducing the number of workers affected, and of mitigating the consequences by recourse to accompanying social measures aimed, inter alia, at aid for redeploying or retraining workers made redundant - the employers shall in good time during the course of the consultations: (a) supply them with all relevant information and (b) in any event notify them in writing of: (i) the reasons for the projected redundancies; (ii) the number of categories of workers to be made redundant; (iii) the number and categories of workers normally employed; ...</p>	<p>Where the transferor or the transferee envisages measures in relation to his employees, he shall consult the representatives of this employees in good time on such measures with a view to reaching an agreement. (Art. 7.2) The information and consultations shall cover at least the measures envisaged in relation to the employees. The information must be provided and consultations take place in good time before the change in the business as referred to in the first subparagraph is effected. (Art. 7.3)</p>	<p>Definition of consultation</p>
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<p>"participation" means the influence of the body representative of the employees and/or the employees' representatives in the affairs of a company by way of:</p> <ul style="list-style-type: none"> - the right to elect or appoint some of the members of the company's supervisory or administrative organ, or - the right to recommend and/or oppose the appointment of some or all of the members of the company's supervisory or administrative organ. 					Definition of participation
<p>employee transnational information and consultation</p>	<p>Matters shall be considered to be transnational where they concern the Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States. (Art. 1)</p> <p>(transnational information and consultation of employees) shall relate in particular to transnational questions which significantly affect workers' interests (Art. 6)</p>			transnational	
<p>"SE" means any company established in accordance with Regulation (EC) No 2157/2001</p>	<p>'Community-scale group of undertakings' means a group of undertakings with the following characteristics:</p> <ul style="list-style-type: none"> — at least 1 000 employees within the Member States, — at least two group undertakings in different Member States, and — at least one group undertaking with at least 150 employees in one Member State and at least one other group undertaking with at least 	<p>This Directive shall apply, according to the choice made by Member States, to:</p> <ul style="list-style-type: none"> (a) undertakings employing at least 50 employees in any one Member State, or (b) establishments employing at least 20 employees in any one Member State. (Art. 3) 	<p>For the purposes of this Directive:</p> <p>(a) 'collective redundancies' means dismissals effected by an employer for one or more reasons not related to the individual workers concerned where, according to the choice of the Member States, the number of redundancies is either, over a period of 30 days:</p> <ul style="list-style-type: none"> - at least 10 in 	<p>This Directive shall apply to any transfer of an undertaking, business, or part of an undertaking or business to another employer as a result of a legal transfer or merger. (Art. 1)</p> <p>This Directive shall apply to public and private undertakings engaged in economic activities whether or not they are operating for</p>	<p>cross-border</p> <p>Scope & thresholds & exceptions</p>

	150 employees in another Member State;		<p>establishments normally employing more than 20 and less than 100 workers,</p> <ul style="list-style-type: none"> - at least 10 % of the number of workers in establishments normally employing at least 100 but less than 300 workers, - at least 30 in establishments normally employing 300 workers or more, (ii) or, over a period of 90 days, at least 20, whatever the number of workers normally employed in the establishments in question; <p>(Art. 1)</p>	<p>gain. An administrative reorganisation of public administrative authorities, or the transfer of administrative functions between public administrative authorities, is not a transfer within the meaning of this Directive. (Art. 1)</p> <p>This Directive shall not apply to seagoing vessels. (Art. 1)</p>	
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A new path for Europe: ETUC plan for investment, sustainable growth and quality jobs

Adopted at the meeting of the ETUC Executive Committee on 7 November 2013

Introduction

The economic and social situation in the European Union, particularly in countries in difficulty, is alarming. We deplore increased inequalities and geographical imbalances, rising unemployment - especially for young people-, reduced consumption, jeopardised social cohesion, rising political instability, the rise of anti-European groups and the collapse of local markets. This is the result of austerity policies which encouraged internal devaluation, privatisation of public services, cuts in wages, pensions and welfare payments. We are caught in an economic downwards spiral, and in increased public debt. The recession threatens to spread across the entire continent with impact on the global economy. These policies also exacerbated the EU economic and political divergences instead of overcoming them.

Desperation of many workers in countries most severely affected leads to migration of citizens in search of temporary or permanent employment in other EU member states and outside the regulated labour market, creating a situation of forced mobility rather than the desired freedom of movement.

The demographic evolution, scarcity of natural resources, increasing energy prices, the role of emerging economies in world trade, the increasing reliance on knowledge and technology in business, continuing uncertainties in the banking sector are additional daunting challenges facing us in this second decade of the 21st century.

Beating the recession and stagnation of our economies is the most urgent task in front of us. The continuing fall in GDP in parts of the EU must be stopped and reversed. We need a strong recovery, supported by a solid financial sector serving the real economy, to prevent prolonged stagnation across the EU as a whole. This is the way to secure sustainable state finances. Consolidation of State budgets should take place in stable economic phases and be carried over a longer period of time. They should be socially equitable and guarantee quality public services. This goal can be pursued by allowing flexibility on public deficit and/or introducing the possibility of not subjecting specific productive investment to the budgetary constraints of the Stability Pact.

The ETUC is convinced that the EU has the potential to combat this crisis. This potential relies on well educated people, strong industrial base, good public and private sector services, innovative research and educational institutions, well organised state systems, cultural wealth, and, inclusive and well distributed welfare state within the EU, a Eurozone with a stable single currency. This potential must be used to overcome the crisis for the benefit of the people. Unfortunately this potential is being dissipated rather than developed. The EU must mobilise its strengths for a better, more equal, prosperous, democratic and peaceful future.

It requires investments in power generation, reducing energy consumption to lower the energy dependency, and to decrease greenhouse gas emissions. It requires investment in sustainable industries, especially SMEs, and services, training and education, research and development, modern transport infrastructures, the reindustrialisation of the EU, efficient private services and quality public services.

There is an urgent need to take a new direction for the future, stabilise the economic environment, and create jobs for the 21st century and give access to the welfare to everyone. Europe needs a long-term recovery plan.

A recovery plan would lead to a better integrated European union, it would be beneficial for all countries, and be an act of solidarity with countries in difficulty; it is based on democracy, stability and cohesiveness. It would substantially contribute to modernising national economies and improving productivity.

Working together in the European Union for sustainable investment and decent jobs.

Policies of internal devaluation have been negative for demand and investment; such policies have also encouraged unfair competition on wages and working conditions, and labour law. We need to reverse this trend through reinforced cooperation.

The following measures would provide scope for greater cooperation:

- Cooperation on tax avoidance, evasion and tax havens through comprehensive information sharing and cooperation between national tax authorities and harmonisation of the corporate tax base;
- Financial market reform to rebalance the EU's economy;
- Greater cooperation between national authorities, civil services and public services to promote long term quality public services;
- Involvement of social partners in strengthening social dialogue, collective bargaining and worker participation, particularly in relation to economic governance process at national and EU level, education and training and labour market reform;
- Promotion, respect and enlargement of European social standards so as to fight precarious jobs and promote decent, quality jobs.

Some countries in difficulty need additional measures to stabilise their economy and build up solid state structures. Extending the terms of existing bilateral and multilateral loan agreements, especially for new long term investment and substantially cutting their interest rates would provide security in economic development. In this context the introduction of Eurobonds can protect countries undergoing difficulties from uncontrolled speculation and be an efficient tool for productive investments. This implies also a review of the mandate of the BCE ensuring to this institution a role of lender of last resort

The EU budget and particularly the structural funds should support sustainable growth, investment and decent jobs. Both unspent resources and new structural funds should promote priorities in line with this plan, in coherence with the EU 2020 objectives. The use of structural funds should be facilitated by simplification of the procedures and taking out co-financing resources from the deficit and debt targets.

The EU needs a recovery plan for sustainable growth and decent jobs

A short-term stimulus, as advocated in 2009, is no longer sufficient. We need a longer-term perspective to overcome the deepening difficulties and divisions in the EU. We propose a target of investing an additional 2% of EU GDP per year over a 10-year period.

The aim is to:

- ensure wealth as well as enough decent and high-quality jobs with a future, especially for young people;
- be sustainable, designed so as to maintain the cohesion of European societies and adjusted to ecological, social and demographic challenges;
- be controlled democratically;
- be initiated as a pan-European supranational project rather than the sum total of the national stimulus or investment programme of the European countries;
- place measures necessary in the short term in the context of the long-term challenges and continue even during an economic upswing;

- set out rules for the market and provide policy orientation, thereby also steering private investment toward innovative projects for the future;
- have robust financing and at the same time put the countries in Europe in a position to generate tax income for the provision of public services and the reduction of public debt;
- contribute to income redistribution to counter inequalities and fight poverty at national and European level;
- go hand in hand with tax policies that can encourage investment that fosters growth in high-quality employment and encourages companies to adopt socially-responsible behaviour.

The rich and economically stronger countries and groups will have to contribute more to financing future investments.

Such a plan should be open to all EU countries; but investments would only be directed to those countries who contributed to the plan.

The directions for investment can be taken from past EU and EIB priorities. These include:

- Energy transformation (see Energy roadmap 2050, European Commission);
- Transport network and infrastructure (e.g. Trans-European Transport Network – TEN transport);
- Education and training;
- Expansion of broadband networks;
- Industrial future (SME support – on the condition that they apply legal and collectively agreed rules-, energy efficiency and efficient use of resources, low-interest loans, microcredit programme etc.);
- Public and private services (e.g. urban renewal, health and welfare);
- Infrastructure and housing for old people;
- Social housing;
- Promoting sustainable water management.

Europe-wide investment projects should be developed in conjunction with national investment projects. Investments which have the greatest impact on domestic economic activity should have priority. This should also be consistent with directing investment so as to give the greatest prospect of future financial return.

Towards democratic institutional arrangements and financing of the recovery plan

A European institution is necessary to manage the plan; such an institution will open up access to finance across the whole EU and can issue European long-term bonds with relatively low interest rates as a basis for financing investment across the EU.

Different possibilities exist for the direction, coordination and implementation of the European investment plan, and for its democratic control, for instance,

- The use of existing body(ies) such as the EIB and/or
- The creation of a new body, to be designed by Member States, European Parliament and European Commission.

In both cases it will be indispensable to ensure the democratic control over strategic policy orientation and supervision of the recovery plan and to secure its coordination. How to do that would have to be decided by the European Parliament. Social partners must be involved at all stages of the democratic process.

In both cases the institution would receive and manage the initial share capital and then raise extra finance by issuing long-term bonds that would incur annual interest, taking advantage of the large volumes of saving both within and outside the EU seeking secure investment opportunities.

The standard method should be direct investment, low interest-loans, investment grants and/or the recently introduced project bonds. These will follow applications from businesses, national governments, regional and local authorities and other organisations in member states. Success therefore depends on a satisfactory flow of convincing projects.

Interest obligations for loans incurred by public sector bodies could be funded from additional tax revenue brought from recovery of the economy.

Loans to the private sector should be commercially viable and therefore yield a return.

In order to keep the interest rate on 10 year bonds as low as possible, the European institution that issues the bonds needs to be seen as a solvent debtor with sound credit ratings on financial markets. It would therefore need sufficient equity at its disposal. Member states would decide how to organise the source of this equity.

However, after workers and taxpayers having borne the main burden of the crisis, it is now time for the wealthy and rich to also participate in this one off funding of capital for the European guardian of growth and investment for example via a one-off wealth tax.

Member States might decide to use unspent resources from the structural fund to contribute to this equity and/or to use the structural funds as a co-guarantee for the loans. The Commission can also be involved as a co-guarantee for the loans.

The initial repayment requirements are extremely low, amounting only to the interest on long-term credits. Although this increases over time, particularly when the initial loans have to be repaid, it is always a small sum relative to the increase in tax revenue, assuming that rises in line with GDP, once growth in GDP is restored.

There is therefore no need for increasing tax rates or for introducing new taxes. However, member states could choose their own means to raise extra revenue.

The revenue from the Financial Transaction Tax could contribute to financing the initial capital to be paid in by national governments or to financing the interest of the loans.

Predicting the results:

A long term investment plan should increase national income and employment levels in the following ways:

- The immediate effects of investment, meaning more employment in construction projects and the higher demand that will result from that.
- A substantial increase in tax revenue, will be more than adequate to repay the loans.
- Reasonable forecasts can be made over the next few years of resulting effects on income and employment levels.

The proposed increase in investment by 2% of EU GDP per year should kick-start additional private investment and thus promote wide-scale private modernisation measures.

In the long-run the investment offensive in a fundamental overhaul of European national economies in terms of energy policy could yield up to 11 million new full-time and innovative jobs (see annex 1).

Quantitative growth and a high level of employment also create the best basis for reducing debt levels and budgeting sustainably. Our plan will benefit the EU countries since they will receive additional impetus for growth and employment and can use this

to generate significantly higher direct and indirect tax revenue from income tax, VAT, company and corporate taxes as well as social security contributions and to cut the cost of unemployment. This will, in turn, facilitate repayment of the debt incurred.

Investment spending on developing new facilities for education, training, research, health care and other services can have a meaningful long-term impact only if there is current spending to employ the necessary personnel. Creating quality jobs conflicts with austerity policies where cuts in public spending have led in many cases to emigration and to a brain drain.

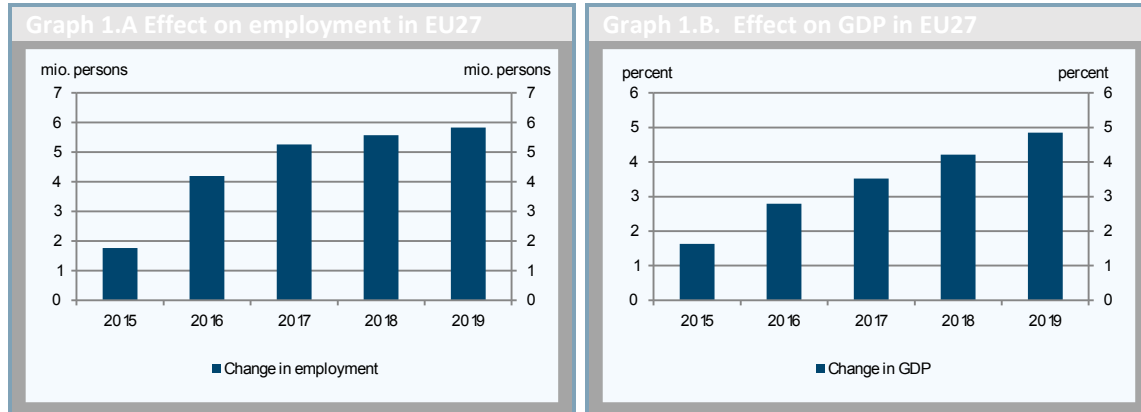
The long-term effects, once investment projects are completed, cannot be estimated with precision. They should be substantial. For example, an energy transformation will cut carbon dioxide emissions and decouple Europe's energy supply from fuel imports thus potentially saving 300 billion on the European fuel energy bill. This is one of the most important factors for the competitiveness of tomorrow. This will allow Europe to make a significant contribution to reducing the impact of the global climate crisis and become a role model for other economic regions around the globe.

Annex 1: EFFECTS OF INVESTMENT PLAN

The effect of the investment plan has been computed with two different models to capture both the short-term and long-term effects of the recovery plan.

A. Short-term to medium term effects.

The Economic Council of the Labour Movement (ECLM) has calculated the effects of increasing public investments in the EU with 2 percent a year in the years 2015 to 2019.



Note: Interest rates and exchange rates are set exogenous in the model.
If the ECB decides to increase the interest rate the effects in the medium term will be smaller.
Source: ECLM on basis of calculations in HEIMDAL

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If the ECB decides to increase the interest rate the effects in the medium term will be smaller.
Source: ECLM on basis of calculations in HEIMDAL

The investment plan increases employment by more than 1.7 million people in 2015 rising to nearly 6 million people in 2019. GDP in the EU27 is increased by 1.6 percent in 2015 and in 2019 the GDP level is increased by almost 5 percent compared to a scenario without the investment plan. The results for various countries are listed in [table 1](#) for 2019.

Increases in business investments are also a consequence of the investment plan. In the EU-27 as a whole the level of business investments is lifted by more than 7 percent in 2019.

Table 1. Effects of increasing public investments						
	GDP	Employment (persons)	Employment	Business investments	Direct and indirect taxes	Current balance
	Percent	1000 persons		Percent		PP of GDP
Spain	3.6	674	3.8	5.7	4,1	-0.7
France	1.8	512	1.9	6.7	5,8	-0.3
Germany	3.4	1308	3.1	12.0	8,5	-0.2
Italy	1.7	363	1.6	3.2	11,0	-0.7
Sweden	3.0	109	2.3	5.3	5,8	-0.7
UK	2.3	481	1.6	4.0	3,5	-0.4
Finland	2.6	56	2.3	7.0	8,3	-0.1
Denmark	2.7	56	2.0	7.7	10,0	-0.6
Czech Republic	6.8	253	5.3	6.2	6,6	0.2
Poland	4.9	585	3.9	13.1	6,2	-1.3
Belgium	2.6	86	1.9	6.0	6,1	-0.2
EU27	2.8	5825	2.7	7.1	6,9	-0.3
Euro area	2.8	3849	2.7	7.5	7,6	-0.3

Note: Interest rates and exchange rates are set exogenous in the model. If the ECB decides to increase the interest rate the effects in the medium term will be smaller.
Source: ECLM on basis of calculations in HEIMDAL

B. Long-term effect of the investment plan

In the long-term the effect of the investment plan as specified above will also have an impact on the value of elasticity as the economy will converge towards a less energy intensive economy. Using the methodology of the European Commission, the investment plan will create between 7,2 to 11 million full-time jobs all depending on the value of multiplier. Furthermore the increase in GDP due to the investment plan is estimated to lie between 312 to 390 billion Euros. Likewise the tax revenue and social security contributions will increase substantially.

Table 2: Long-term (10 years) effects of the investment plan according to European Commission methodology using different values for the multiplier effect (min. 1,2 to max 1,5)

Source: DGB

Multiplier	1.2 minimum	1.3	1.4	1.5 maximum
GDP (EUR, billion)	312	338	364	390
Full-time Jobs (million)	7.2 to 8.8	7.8 to 9.5	8.4 to 10	9 to 11
Tax revenue (EUR, billion)	83	90	97	104
Social security contributions (EUR, billion)	45	48.5	52	56
Savings in unemployment benefit expenditure (EUR, billion)	16	17	18.7	20
Savings in fossil fuel imports (EUR, billion)	300	300	300	300

Note: Methodology according to European Commission Directorate General Economic and Financial Affairs: new and updated budgetary sensitivities for the EU budgetary surveillance (Information note for the Economic and Policy Committee), Brussels, 30 September 2005)

Annex 2:

NOTES ON THE EUROPEAN INVESTMENT BANK AND ITS SUITABILITY FOR A RECOVERY PLAN

1. Purpose and priorities

Article 309 of the EU Treaty sets out the EIB as a non-profit-making organisation that supports the development of the internal market. It grants loans and gives guarantees to finance projects for developing less-developed regions, for modernising or converting undertakings or developing new activities and for projects of common interest to several member states.

Its current plans for increasing investment focus on support to SMEs, knowledge economy, transport, energy, urban and health, 'environment and non-transversal climate and convergence'. Funding strategies are designed to target 'regions and sectors where financial constraints are the most severe and where investment can be unlocked rapidly'.

2. Governance and accountability

The EIB is directed and managed by a Board of Governors, a Board of Directors and a Management Committee. The first two of these are appointed from member states and are concerned with strategic decisions. The voting systems ensure representation for all member states while also respecting financial contributions. Day-to-day decisions are taken by the Management Committee. These follow the priorities laid down by the Board, i.e. set by member states in consultation with the European Commission. Targets for broad investment areas are set and the management is answerable to the Board for their implementation. The Board in turn presents an annual report to the European Parliament which can also scrutinise conformity of its practice with set priorities.

3. Lending policies

The EIB lends to both public-sector and commercial projects. The former are the responsibility of that government. The latter may require a government guarantee or some other form of financial guarantee for the project. Thus a significant body of its investment is already guaranteed by governments.

It grants long-term loans, frequently of around, or over, 10 years.

The practice has been to seek co-financing, meaning that investments are also partly financed by another body. This can mean co-financing EU Structural Funds projects. It also means seeking joint funding from commercial banks. This gives the potential for a multiplier effect, with considerably more total investment than that promised from the EIB alone.

Co-financing is not an absolute requirement. The EIB statutes (Article 16.2) refer to it as a condition 'as far as possible'. However, it has always been possible to find other bodies (EU funds, public sector bodies and above all commercial banks) to join in funding projects that have the EIB stamp of approval. The EIB has aimed for at least 50% co-financing, but has recently expected co-financing to lead to a total investment level three times the EIB commitment. If this is maintained, a target investment level of 2% of GDP could be achieved with an EIB contribution equivalent to 0.67% of GDP.

4. Capital requirements

The bank's capital is contributed by member states, roughly in proportion to their levels of GDP. The total amount is set by the Board of Governors, currently at EUR 242 bn.

Member states are required to pay in, on average, only 8.9% of this. The remaining part is a guarantee should the bank be unable to meet its obligations. This has never been called on and is never likely to be called on.

According to its statutes, the EIB can lend up to 250% of the total capital, meaning what is paid in plus what is guaranteed. This has never been a practical constraint. A more serious constraint has been imposed by rating agencies which limit the amount the EIB can borrow. Their approval is required by the EIB's need to retain its AAA rating. The effect has been to limit lending to eight times the capital actually paid in. Thus an increase in credits would require more paid-in contributions and an increase in the guarantee (the capital not paid in) from member states.

With the maximum proposed for the recovery plan, a 10-year period of investment at the equivalent of 2% of GDP, assuming co-financing, would mean raising the total paid-in capital by 0.83% of total EU GDP. This is a small sum over a ten-year period when set against likely returns from investment. It would ideally be firmly agreed at the start, but payment would not need to be immediate.

An increase in capital requires a unanimous vote from the Board. All member states would be expected to contribute in line with their past shareholdings. There are precedents for states paying in different amounts. There are also precedents for member states withdrawing capital from the EIB.

5. Does this imply transfers between countries?

The EIB has been committed to investing in all member states, but with a bias towards those with lower incomes. It does not set quotas for countries and does not match capital paid in with investment in a particular country. However, investment undertaken in a particular commercial or public-sector project has to be repaid from the returns from that project or from that country's tax revenue. It does not make gifts but offers loans. Shares in the bank are also assets that bring a return and there are precedents for member states' governments taking some of this money out. There therefore need be no long-term transfers between countries.

The bulk of the EIB's resources come from bond issues and hence from savings in insurance companies, investment funds and pension funds. There is likely to be more from higher incomes countries, but much is also likely to come from outside the EU. Even if there is a greater financial input from one country rather than another, this should not be seen as a permanent transfer. These bonds are an asset that will earn a return in the future, funding pension and other payments.

Raising investment in an EU member state can be expected to have economic impact beyond its borders, creating demand for machinery and other goods. There will therefore be benefits across the EU from a recovery plan that prioritises investment in the countries facing the greatest difficulties.

ETUC resolution: Supporting Workplace Learning to tackle unemployment in Europe

Adopted at the meeting of the Executive Committee on 22-23 October 2013

Workplace learning is defined as activities to promote learning and training and personal development for workers in the workplace. It provides workers with an opportunity to develop as active citizens, to acquire and update their knowledge, skills and competences and to improve their employability. Equally it provides employers with skilled workers to boost competitiveness, develop innovation and increase productivity. Workplace learning is not to be confused with work-based learning, which is generally associated with apprenticeships for young people and dual systems of vocational training as part of the transition from school to the labour market. Workplace learning is for those already in work and contributes to ensuring that they remain so.

Because of the crisis and high unemployment levels in several Member States, particularly among young people, the current European narrative on education and training is neglecting the workplace dimension and is mainly focusing on work-based learning and the transition from school to the labour market.

The current debate on youth unemployment has led European institutions and social partners to launch important initiatives, such as the Youth Employment Initiative and the Youth Guarantee, as well as the European Alliance for Apprenticeship. In the meantime the attention given to issues such as lifelong learning, continuous training and workplace learning has decreased, although these policies are fundamental to tackling and preventing long-term and adult unemployment, as well as managing restructuring, dismissals and the transition to a green economy.

For these reasons the current European narrative, which currently mainly focuses on work-based learning and the transition from education and training to the labour market, should be revised, implemented, and given greater balance by paying more attention to workplace learning. Adequate research should be carried out at all levels, particularly by governments, to examine market trends across all spheres of industry and services, in order to design more and higher quality work-place training activities.

Recent trade union action in relation to workplace learning

The ETUC has recently supported a 1-year European project, developed by Unionlearn, the Education Department of the TUC (UK), in cooperation with DGB (Germany), FNV Format (the Netherlands), CITUB (Bulgaria), LO-S (Sweden), UIL (Italy), and ZNP (Poland), entitled “Building Trade Union Support for Workplace Learning throughout Europe”.

The project has compiled a complete picture of the existing trade union and social partners’ activities in the field of workplace learning in the countries involved.

The overall objective of the project was to increase the capacity of trade unions at the European and national levels, so that they are in a better position to encourage, advise and guide workers in making informed choices as regards the take-up of education and training opportunities, and to engage with employers, by social dialogue and collective bargaining, in a process to improve workplace learning and to enhance workers’ skills.

The final recommendations and future strategy priorities were agreed on 25 June 2013 in the final conference of the project in London, in the framework of the so-called London Manifesto for Workplace Learning. The Manifesto summarizes the results of the project

and provides recommendations to the project partners on improving workplace learning in Europe; it provided orientation as a basis for the present resolution.

Implementation of Workplace Learning throughout Europe: actors and tools

Many different actors have a shared interest in and responsibility for the successful provision of workplace learning:

- Workers themselves, who put in the time and the effort to participate in the learning process, and companies that can improve their productivity and competitiveness through continuing training;
- Training centres and schools that provide appropriate training;
- Governments that create the legal and operational frameworks for training;
- The key to success the social partners at the national or regional levels – who, together with training centres and governmental agencies, design and deliver relevant programmes;
- Social partners at the workplace level, employers who value training and provide the access and funding required to enable it to take place, and trade unions and workplace representatives who motivate workers and provide them with guidance and support throughout the process.

Clearly, successful workplace learning requires adequate funding: from the employer; from governmental training funds at the regional or national levels; from funds managed by social partner organisations, mutually or separately; from the European Social Fund; or from a combination of these different sources.

To improve the overall framework for workplace learning throughout Europe, there are a several steps for the European social partners to take:

- There is a need to mobilise the major actors concerned: the European Trade Union Confederation (ETUC) and the representative employers' organisations, BusinessEurope, the European Association of Craft, Small and Medium-sized Enterprises (UEAPME) and the European Centre of Employers and Enterprises providing Public Services (CEEP); and the European Commission;
- Their aim should be to improve the quality of workplace learning within the context of Social Dialogue; to launch a European Alliance for Workplace Learning, modelled on the European Alliance for Apprenticeships; and to push the European Commission to launch a Recommendation on Workplace Learning in Europe, modelled on the Recommendation on the Validation of Non-formal and Informal Learning;
- There is also a need to mobilise the members of the ETUC and to strengthen their ability to support workplace learning throughout Europe. For this reason the ETUC will create networks for workplace learning within the ETUC Lifelong Learning Working Group which will provide opportunities for exchanging information and experience on workplace learning initiatives and advise on ways to obtain funds for training and for capacity-building within its own movement.

Commitments for future ETUC work at the European level

- Engage in Social Dialogue with employers' representatives so as to reinforce the contribution that trade unions can make to the general enhancement of workers' skills throughout Europe and to launch a European Alliance for Workplace Learning;
- Lobby the European institutions in order to produce a Recommendation which would establish certain minimum rights for trade union support for workplace learning;
- Ensure that trade unions are involved as full partners at all levels of the governance structures of the European Social Fund in all Member States, with the aim of funding workplace learning among the other ESF's objectives;
- Ensure that part of the resources of the European Social Fund are earmarked to support workplace learning and to produce capacity-building tools advising trade unions on how they can access ESF funds for workplace learning;
- Call on the European Centre for the Development of Vocational Training (CEDEFOP) to investigate examples of good workplace learning practice;
- Mobilise the ETUC Lifelong Learning working group to provide support for workplace learning and to raise awareness of the benefits that it can bring to all workers;
- Set up further projects to highlight the role that trade unionists play in supporting workplace learning, with an emphasis on the exchange of best practices and the establishment of online networks.

Recommendations for future trade union work at the national level

- Continue to investigate ways in which trade unions support workplace learning;
- Engage in projects to improve trade union support for workplace learning;
- Raise awareness about the importance of collective bargaining as a tool to develop and establish better regulations about workplace learning, continuous training and lifelong learning
- Continue to raise awareness of the importance of workplace learning, with workers, employers and union leaders, and of the role that trade unions are playing to support it;
- Campaign to provide funding for workplace learning and also for trade unions so that they can continue to support workplace learning;
- Campaign to ensure that all workers, full-time and part-time, have access and financial support to participate in workplace learning;
- Train trade union representatives so that they have the knowledge and skills to support workplace learning.

ETUC statement: A European recovery plan is urgent

Adopted at the meeting of the Executive Committee on 22-23 October 2013

The current multi-faceted crisis exploded five years ago essentially in the financial sector; it triggered an economic and then a sovereign debt crisis.

To combat this crisis EU leaders have adopted and implemented policies through brutal austerity measures and internal devaluation.

This exacerbated the crisis, destroyed functioning economic structures, reduced consumption, increased inequalities and poverty, attacked wage levels, dramatically raised unemployment, jeopardised social cohesion and the support to the EU project.

These policies also worsened EU economic and social divergences instead of eliminating them.

Furthermore, the demographic evolution, scarcity of natural resources, the perspective of a lost generation, increasing energy prices, and continuing uncertainties in the banking sector are daunting challenges facing us in this second decade of the 21st century.

For all these reasons, the ETUC calls on the Council to change course, and launch a bold European recovery plan with a target of investing additional 2% GDP per year over the next decade drawing on national and European resources. The aim is to relaunch the economy leading to sustainable growth, to re-industrialise Europe and to create decent jobs, particularly in countries most affected by the crisis.

This is the only way to give a new direction to the European project and show that the EU stands for social progress and is not an instrument which attacks social rights.

The ETUC will mobilise its members around these demands during the month of November.

The ETUC Coordination of Collective Bargaining and Wages in the EU Economic Governance

Adopted at the meeting of the Executive Committee on 22-23 October 2013

- The EU economic governance introduced unwanted interventions on collective bargaining and wage setting mechanisms, particularly through the CSRs.
- In this context a new method of internal and autonomous coordination is needed to prevent and/or counter such interventions, by involving the ETUC affiliates in a multi-level exercise (EU, national, sectoral), fully respecting the autonomy of social partners at the appropriate levels.
- This new method of coordination is described in this resolution and will be led by the ETUC Collective Bargaining Coordination Committee.
- It will improve the priorities and orientations set by the resolution “Collective Bargaining: The ETUC Priorities and Working Programme” adopted by the Executive Committee in March 2012.
- Such method will be coherent with the general strategy of the ETUC to cope with the EU Economic Governance.
- The “Toolkit for Coordination of Collective Bargaining and Wages in the EU Economic Governance” will support this exercise, by collecting and comparing data and best practices and implementing ETUC internal training on collective bargaining.

Background

Implementation of the Resolution adopted on 6-7 March 2012 and Recent Developments

In the meeting held on 6-7 March 2012, the Executive Committee of the ETUC approved a resolution named Collective bargaining: The ETUC Priorities and Working Programme. The resolution set down a new method of internal coordination of collective bargaining and wage policies within the ETUC, according to the changes that impacted trade union strategies in these fields as a result of the economic crisis.

The resolution also set out four priorities underpinning this coordination:

- The confirmation of the so-called “golden rule” (inflation plus productivity) in addressing wage rounds, with some flexibility according to the different countries’ and sectors’ specificities, but with nominal wage dynamics to remain in positive terrain and a rejection of wage freezes and wage cuts; actions for preserving collective bargaining rights and the autonomy of social partners, as well as fighting against the unwanted decentralisation of collective bargaining, achieved by putting an end to the undermining of collective agreements at national level;

- The red lines to be adopted as guidelines for defensive agreements and opening clauses in cross-industry, sectoral and company agreements, in order to keep them temporary, bargained and monitored by social partners and in exchange of clear and well-defined compensations in terms of employment and investment;
- The ETUC common priorities on minimum wages and collective bargaining coverage;
- The need to spread and strengthen the European Framework Agreements' practices in the multinational companies.
- The resolution also stressed the necessity to close the gender pay gap. Collective bargaining proved to be effective in tackling gender inequalities and in removing causes of all forms of discrimination.

Since then, the ETUC Secretariat, the Collective Bargaining Coordination Committee and the Task Force have jointly put in place a number of activities and projects, in order to implement priorities and directions set in the resolution.

In this context, specific activities have been developed:

- A new ETUC coordination of collective bargaining and wages within the framework of EU economic governance (to be submitted for endorsement to the Executive Committee through this resolution).
- A position on the current economic governance and EU Semester process and their consequences for wage setting mechanisms and collective bargaining (Statement adopted by the Collective Bargaining Coordination Committee – Annex 1).
- A toolkit to support the ETUC and its affiliates when facing such processes to improve their internal method of coordination, as well as to implement training activities for collective bargaining and wage negotiations (Annex 2).

For adoption

The ETUC Coordination of Collective Bargaining and Wages in the EU Economic Governance

The new Economic Governance is based on multilevel policy making and on a multilateral system of surveillance in which national and European policies are closely interlinked. Wage trends and collective bargaining reforms are monitored during the European Semester and are often the subject of policy recommendations.

Country Specific Recommendations, as formulated so far, are the basis for reforms of labour law and industrial relations that have downgraded the rights and working conditions of employees. The current strategy for the decentralisation of collective bargaining has turned into the deregulation of collective bargaining systems.

It is clear that the International Labour Organisation is continuing to denounce this deregulation and interference in the collective negotiations linked to austerity policies imposed at the European level. These policies are not a solution and do not produce any positive effects, even pushing some Member States to no longer respect the fundamental conventions of the ILO at the risk of endangering their population.

If the general bias in favour of wages as a downward adjustment mechanism persists, this implies that the NRPs and the CSRs following from this will continue to promote wage moderation and wage cuts and will also continue to attack collective bargaining systems, even when there is no evidence to justify this.

Decisions on how to organise collective bargaining and wage setting is a national competence, falling within the social partners' autonomy and sovereignty. The collective bargaining systems differ according to national industrial relations and traditions. Article 153 5 of the Treaty establishes that the issue of pay is outside the scope of EU competences. This should be strictly respected by the EU institutions and national governments.

It is vital that the influence of trade unions in the EU Semester is increased. Unfortunately, the majority of national governments do not involve social partners when drawing up their NRPs. Social partners are often also excluded from the process of transforming NRPs into CSRs.

In 2012, only the Finnish, Swedish, and Italian governments obtained changes in their CSRs related to the section concerning collective bargaining and wage-setting mechanisms, following a request from social partners. If this demonstrates a general weakness of the trade union movement in the European Semester, these two cases show that it is possible to strengthen the trade union voice.

In its conclusions at the summit in December 2012, the European Council declared itself ready to enhance the role of social partners in the new economic governance and launched a debate to establish how social partners could be involved in the European Semester. It is a long and complicated process.

European trade unions need to increase their influence on the European Semester now. The 2013 CSRs focus once again on collective bargaining and wage formation systems at national level, and the ETUC should not leave its affiliates alone in tackling further government interventions and reforms.

The ETUC rejected new tripartite formats at EU level for monitoring wage trends and collective bargaining activities, such as the EMCO exercise of 1 February 2013. At the same time the ETUC highlights the need for renewed and strengthened internal coordination, aimed at countering EU interference in the autonomy of social partners as well as in confronting the EU Semester when it looks at wage developments.

New ETUC coordination of collective bargaining facing the Economic Governance has to be autonomous and easily applicable. It should aim at making the trade union voice more influential within such a process and at the same time avoid and/or counter interference on collective bargaining and wage setting systems coming from the EU and national institutions.

This objective could be achieved by enhancing trade union capacities to be consulted and to react in a timely manner to the decisions made within the EU Semester.

ETUC coordination should enhance the position of the ETUC affiliates to defend collective bargaining systems and to increase their bargaining power. National social partners, in their full autonomy, have to be involved in all steps of government decisions concerning NRPs and CSRs, particularly when wages and collective bargaining are at stake. The ETUC has to demand this from the European institutions.

The ETUC will improve and better coordinate its method of collecting data, information and evaluations from its affiliates, in order to set up an annual report on

wages and collective bargaining at EU level and to be able to react in a coordinated way to the general strategies carried out by the European Commission through the CSRs.

This “two-level” method of coordination includes a more structured and continuous exchange of information aimed at setting common strategies. It implies comparison for measuring the quantitative and qualitative effects of the coordination action.

It includes monitoring trends, which are relevant to collective bargaining and wage development at any level (national, sectoral, company, cross-border and transnational levels), as well as the analysis of other complementary factors influencing wage and purchasing power dynamics, as, for instance, gross labour costs, fiscal burdens, pay discriminations between women and men performing the same work or a work of equal value, the economic dependency of unemployed people, etc.

Specific actions could be planned for the ETUC to support an affiliated organisation at its own request. This could be when an affiliated organisation is opposing attacks on collective bargaining and/or wages led by its government, whether implementing recommendations issued by the EU institutions within the framework of the EU Semester or not.

The ETUC Toolkit for Coordination of Collective Bargaining and Wages

The ETUC Collective Bargaining Coordination Committee began setting up a Collective Bargaining Toolkit to support its new method of coordination. The toolkit has been further developed and finalised over recent months.

The document in attachment includes 5 specific toolkits, which propose a working method for the Collective Bargaining Coordination Committee (CBCC). Building a trade union toolkit to enhance coordination of collective bargaining in Europe is primarily a ‘capacity building’ exercise.

A common methodology can only be built together. That is why this document must be seen as a ‘work-in-progress’.

It is also a ‘work-in-progress’ because, for the moment, the 5 toolkits only cover the first priority set out in the ETUC resolution adopted in March 2012: “Collective bargaining: The ETUC Priorities and Working Programme” in addition to the priorities set out in this resolution.

A specific toolkit to tackle the gender pay gap will be developed in cooperation with the ETUC's Women's Committee, as a result of the on-going project "Bargaining for Equality".

Toolkits 1 to 3 aim at enhancing the trade union position in the EU Semester. Toolkits 4 and 5 deal with the so-called ‘golden rule’ of inflation + productivity.

The 2012 ETUC resolution also includes defensive agreements, opening clauses, minimum wages and collective bargaining coverage. These issues will be addressed in the near future.

As far as transnational negotiations are concerned, this issue is dealt by a specific ETUC project.

Collecting and analysing data correctly is a difficult exercise. It will be implemented and adjusted step by step over time. The ETUC, together with the European Trade Union Federations and the national confederations, have already developed

different methods and tools to support this activity. Now it is time to make it more systematic and effective.

One of the ways the toolkit aims to facilitate this process, is by setting up a specific interactive website within the ETUC's general website (collective.etuc.org). Furthermore, the toolkit will become a facility for the collective bargaining internal training course that is going to be organised in cooperation with the ETUI. ETUI data collection and surveys will form the basis for the implementation of the toolkit.

The coordinating and collecting activity supported by the toolkit will fully respect the autonomy of the national and sectoral trade unions, and their strategies in the negotiations. The objective of such an exercise is to strengthen and implement the ETUC's internal coordination, according to the priorities set out in this resolution and in the one adopted in March 2012.

Annex 1 - The ETUC position on the current economic governance and Semester process, with regard to their effects on collective bargaining and wage-setting mechanisms (Final Statement adopted by the Collective Bargaining Coordination Committee in the ETUC Collective Bargaining School, Florence on 10-11 June 2013)

Annex 2 – The ETUC Toolkit for coordination of collective bargaining and wages in the EU Economic Governance

Strengthening information, consultation and participation rights for all workers

Resolution adopted at the Executive Committee Meeting of 22-23 October 2013

The President of the European Parliament, Martin Schulz, declared the shutdown of ERT a threat to “freedom and pluralism in the media”. The public media as an independent voice is a pillar of western democratic systems and has the permanent role of monitoring and supervision of the other powers. Never before has such a case of the quasi elimination of the media happened in democratic systems. This case once again shows that economic democracy and democracy in the workplace in particular need to be strengthened.

As happened a decade ago in the Renault-Vilvoorde case that led to the adoption of the 2002 directive establishing a general framework on information and consultation rights the European Commission is being challenged to prove that fundamental rights and information/consultation are at the core of the European project. These rights are anchored in the EU Charter of Fundamental Rights and it is a Union duty to support and complement the activities of Member States in the field of information and consultation of workers, including co-determination, as provided for in TFEU 153.

It is important to change policy and to strengthen democracy in Europe. The ETUC has already underlined the need to strengthen the general framework on information and consultation 2002/14, for instance when the Commission services undertook the “Fitness check” involving not only Directive 2002/14, but also the Directive on collective redundancies 98/59 and the directive on transfers of undertaking 2001/23. In this “better regulation” exercise, the Commission commissioned a study including a survey with the aim of exploring whether the provisions of the directive were appropriate for delivering the desired results. Part of this survey was a questionnaire sent to the ETUC affiliates and to colleagues at company level. The result of this survey showed that our colleagues detected gaps, uncertainties and practical problems in using the legislation. The overall conclusion made by the ETUC affiliates were that the provisions were insufficient and needed updating.

Furthermore the ETUC detected “incoherencies in the content of the directives, for instance: the definitions of information, consultation, transnational and cross-border are not the same.” Therefore it is necessary to reflect on the possibility of a recast by taking the better definitions of the EWC- or SE-Directive and use them for all directives. The ETUC asks the Commission to consider possible ways to improve the existing Directives.

As a result of the “Fitness check” the Commission concluded this summer that the abovementioned three directives are “fit for purpose”. However, shortcomings were confirmed notably in relation to the scope of the directives (exclusion of public administrations, seafarers and SMEs) and the definition of information and consultation. The Commission refers to an opinion of the European Economic and Social Committee suggesting that serious consideration be given to a consolidation of information and consultation rights in a single European framework directive to ensure more coherence between the various definitions of information and consultation “and, where applicable, participation in company boardrooms as well”. The Commission envisages as possible next steps: a) cover public administration, smaller SMEs and seafarers which are excluded from the directives, via sectoral social dialogue; b) consolidation of the three directives following consultation of European social partners;

c) ex post evaluation in 2016 of the EWC recast. The ETUC will continue to closely monitor these activities, together with the concerned industry federations and actively contribute to the evaluation of the recast.

In its REFIT Agenda (IP/13/891) the Commission announces the “Consolidation of three Directives in the area of information and consultation of workers subject to the results of a consultation of social partners”. The Commission’s objective becomes somewhat clearer, it is not simply a recast of the same text but the “consolidation” will possibly amalgamate the three Directives to make them “less burdensome” for business, which is nearly impossible without cutting the rights of workers. The ETUC is completely opposed to such a deregulatory step.

The European trade union movement faces major challenges: the ongoing financial, economic and social crisis; dramatically high unemployment, in particular that of young people; the establishment of undemocratic forms of EU economic governance; the ongoing austerity policy and last but not least severe attacks on workers’ information, consultation and participation rights and on collective bargaining; interference in the autonomy of the social partners. One of the most recent attack was the shutdown of the Greek national public radio and television broadcaster ERT on June 11, which was a shock in Greece and which sent shockwaves throughout the whole EU. This event has Europe-wide importance. For the ETUC this is a new Renault Vilvoorde case.

I. The case for inclusion of public services: ERT – a new Renault Vilvoorde

The ETUC together with EPSU and EFJ sent a letter to the European institutions asking them to investigate what had gone wrong, in particular with regard to EU information and the consultation rights of the workers and journalists. Over 2,500 workers were effectively laid off without any information, consultation or participation; even the workers’ representatives on the board were not involved in the decision. The closure shows that the information and consultation rights of the staff, workers and journalists had been totally ignored.

The ETUC together with public service and journalists’ trade unions, EPSU and EFJ, demand action: it is not acceptable that public service workers and journalists are excluded from fundamental rights to information and consultation. The ETUC asks the Commission to include the public services in the information and consultation framework 2002/14 and to strengthen information and consultation procedures along the lines of the EWC recast. A revision of the framework directive in that sense is necessary.

Moreover, the ETUC asks the Commission to analyse which other European legislation (Collective Redundancy Directive etc.) has been violated by the closure of ERT, which fundamental rights have been disregarded, and to evaluate whether infringement proceedings against Greece need to be taken in this respect.

II. The case for stronger information and consultation

The ETUC reiterates its call for a strengthening of the information and consultation procedures, in particular by a revision of the general framework 2002/14, which is one of the cornerstones of European labour law, by bringing them at least in line with the advanced definitions of the EWC Recast.

Furthermore ETUC is convinced that the information and consultation framework needs to be improved in view of anticipation and management of change in the case of mergers, takeovers, plant closures, mass layoffs or other important changes such as reorganisation or restructuring.

In their "Regulatory Fitness and Performance Programme (REFIT): Initial Results of the Mapping of the Acquis" (IP/13/891) the Commission attacks the so-called "gold plating", the norms and rights imposed by some Member States going beyond minimum requirements, for instance: "the setting of thresholds regarding the number of workers for the establishment of representative bodies below the levels set by the Information and Consultation Framework Directive" as additional "regulatory burden". The conclusion is not outspoken, but clear: These "burden" needs to be scrapped. The (European) minimum must become the (national) maximum; a floor of rights is replaced by a ceiling of rights. The Commission announces: "As a result, a consolidation of the three directives through a recast will be considered. Social partners should be consulted as foreseen in the Treaty". The ETUC is not against social partner consultation on this topic but opposes any attempt of deregulatory measure to downsize a fundamental right, be it on national or EU level.

III. The case for anticipation of change in view of sustainable corporate governance in a sustainable company

In this regard the ETUC suggests the following concrete proposals for a revision of the general framework directive 2002/14:

- the ETUC calls for application to all workers including public service workers, civil servants and seafarers;
- the ETUC calls for bringing the Directive 2002/14 in line with the better standards (definitions etc.) contained in the EWC Recast (2009/38) and the SE Directive (2002/86/EC). Importance of stronger consultation rights with a view to reach an agreement via a meaningful dialogue before any decision can be finalised; the information-consultation must imply the value chain: upstream suppliers, subcontractors, dependent companies downstream;
- the Directive should grant employees' representatives a right to expertise;
- the ETUC calls for anticipatory management of employment and competences and to address mid- and long-term corporate strategies aimed at reinforcing internal and external employability: for instance, an annual reflection on the strategic development of a company (or public service) in 5, 10 years to prepare for the change.
- strengthening workers' board-level representation (where applicable) to receive complete information on strategic choices before the decisions are taken, and to increase the control and influence workers have on the strategic decision-making process within a company or public service;
- effective and strong sanctions in case of serious violation of information and consultation rights.

A rethinking is needed: It is necessary to strengthen information and consultation, but also the participatory aspect, especially in the Member States where these rights are established. In these Member States which already have workers' board level representation (WBLR), such a participation system should cover public services and institutions as well. Each Member State has its own system of industrial relations, based on different historical developments and traditions, which has to be respected and which does not require harmonisation.

We have to recognise that companies continue to be able to circumvent or escape co-determination via loopholes in European company law forms or by using foreign company law forms in the internal market. The European Company (SE) directive has not completely closed this loophole. One important reason for this situation is the fact that the SE has not created a European minimum standard but applies only the “before-after” principle related to the national situation. This major loophole needs to be addressed by complementing the “before-after” principle by a European basic standard.

Stronger participation is a step towards sustainable corporate governance in the economic, social and ecological dimension, which in itself is a step towards a sustainable company. The ETUC reiterates its call for a strengthening and broader scope of the information and consultation procedures, in particular by a revision of the general framework directive, but also of the participation rights in the Member States where such rights exist.

ETUC Manifesto on the European Parliament Elections

Adopted at the Executive Committee meeting of 22–23 October 2013

For quality jobs, equality and democracy in Europe!

From 22 to 25 May 2014, elections will be organised in each Member State of the European Union (EU) to elect the MEPs who will sit in the next European Parliament (EP). In particular, the European Parliament has the power to approve or reject European laws, decide on the European budget and choose the President of the European Commission.

In the last few years, some MEPs have also supported demands from the ETUC – banks are better regulated and bankers' bonuses have been limited. The European Parliament supported the Financial Transaction Tax, the establishment of the Youth Guarantee, the inclusion of social and environmental clauses in public procurement contracts or the ETUC social compact: all demands from the European Trade Union. In the face of increasing concerns about the rise in nationalism, racism, populist movements, the union movement must get mobilised. The May 2014 elections are therefore very important for all of us.

The ETUC stands for a change of course. The ETUC is fighting for another Europe.

The Europe that we refuse

The ETUC refuses the current austerity policy which chooses to cut public expenses and lets unemployment increase significantly – in particular youth unemployment (26.5 million unemployed, including 5.7 million young people under 25: a sad record). A policy of precarious work and inequality, which seeks competitiveness only through reduced wages, working conditions and contracts, social protection and unfair taxation.

The European Union has stood for progress for many decades. Its “social model”, an alliance of economic growth and a sustainable improvement in living and working conditions, which is often held up as an example, is now under threat and has been weakened. This is a result of the measures imposed by the current Commission and Council, rather than the EU itself.

The Europe that we want, the policy that we want:

The ETUC calls for another **European policy**, for a social Europe. A Europe of full employment which cares for future generations.

We are calling for: jobs and good jobs...

- ***A revitalised employment strategy must be the top priority. An ambitious European investment plan focusing on the creation of quality jobs which could generate up to 11 million new workplaces.*** This plan will stimulate the European economy and will facilitate the EU's transition to a more environmentally and climate-friendly society over the next decade. A new European industrial policy will be based on innovation, research and development, education, training, health and a Just Transition towards sustainable development. A democratically decided and socially oriented European budget must support this recovery. The Youth Guarantee must be fully implemented.

- **The immediate end to austerity policies.** It is necessary to consolidate public finances but this does not have to lead to a dismantling of social benefits. The EU must put solidarity back at the heart of its policies. Public resources for investment programmes have to be excluded from the “Golden Rule” which limits the structural deficit of the Member States to a maximum of 0.5% of GDP.
- **The guarantee that economic freedoms cannot take precedence over fundamental social rights.** The European Union is not only an economic project, its main objective should be an improvement in the living and working conditions of its population; the fundamental notion of social progress must be confirmed by a ‘Social Progress Protocol’ appended to the Treaties.
- **Respect for, and promotion of, collective bargaining and the autonomy of the social partners.** Social dialogue must be concretely and genuinely promoted at all levels. The autonomy of social partners must be assured, particularly in relation to, but not only, wage bargaining. The EU must recognise the role of workers and their representatives. The increase in purchasing power and decent wages contribute to the revival of domestic consumption and therefore to growth.
- **An end to precarious work.** We need to put an end to precarious jobs. The statutory minimum wage must be increased in countries where this is deemed necessary by trade unions. A minimum social income will be introduced based on common European principles. An individual right to quality education and training will be guaranteed for all. The United Kingdom, Poland and the Czech Republic were able to opt out of the European Charter of Fundamental Rights: it is time to end these exceptions so that the living and working conditions of citizens are improved
- **A guarantee of health, safety, and hygiene at work.** An ambitious new European strategy must be rolled out very quickly (e.g. revision of the Directive on carcinogenic agents, adoption of directives on musculoskeletal disorders and psychosocial risks). Any further weakening of the Working Time Directive must be prevented.

Equality, solidarity

- **Re-establish cohesion and social justice.** We need to reduce the growing inequalities between rich and poor countries, regions and territories, between workers and between citizens. We need to reinforce solidarity between the countries in the EU. Effective and binding measures must be adopted with a view to fighting downwards social and unfair competition by guaranteeing that every worker receives equal pay and equal rights for work of equal value.
- **Combat persistent forms of discrimination at all levels.** Racism, xenophobia, homophobia, nationalism and extremism will be combated rigorously. Mobility must be fair, just and freely chosen. **Migrant workers** must receive the same treatment as other workers and must be informed about their rights. Migrant policy urgently needs to be changed. Specific actions must strive to close the gaps between men and women, notably in relation to wages. The work-life balance must be improved.
- **Quality public services and services of general interest accessible to all** as foreseen by the Charter of Fundamental Rights.. International trade agreements must respect these services. New childcare and health facilities should be developed for children and elderly people (e.g. for dependent people who need guaranteed long-term care with respect for their dignity).

- **Social security** is a fundamental human right, the financing of which must be shared and distributed equally and in that context, the role of public pension schemes (first pillar) remains crucial. Inter-generational solidarity must be bolstered.
- **A fairer fiscal policy.** New decisive and **binding** measures are needed to combat tax evasion, avoidance and fraud. Tax havens have to be eliminated, starting with the immediate implementation of the resolutions of the European Council and the G20. We need to fight against corruption, undeclared work and speculation. Taxation in Europe must be redistributive and progressive. Companies' tax bases and levels of tax must be harmonised possibly by the introduction of a minimum rate of 25%, which is the current average rate. Besides, the European economy is, more than ever, dependent on the financial sector which has to be solid and transparent. Checks on financial markets and financial institutions for the benefit of the real economy have to be reinforced.

Democracy

- **Transparency, legitimacy and responsibility for monitoring European economic governance.** Several anti-democratic and inappropriate measures have been imposed under the pretext of the crisis. The famous 'Troika' (the European Central Bank, the European Commission and the International Monetary Fund) has no mandate founded in European legislation. The adoption of the Fiscal Treaty excluded citizens and the European Parliament from any serious participation in this process. Such procedures must be fought. Social structural enforceable indicators must be integrated into this economic governance.
- **Strengthening and deepening of democracy and transparency within the different European institutions in general.** It is necessary to re-establish their credibility and legitimacy for the European citizen. The European Parliament's power to control and influence other European policies and legislation must be bolstered. The respective competences of the EP and the national parliaments have to be better articulated, in order to enhance democratic control over political decisions.
- The EU and its Member States must rigorously adhere to **European and international instruments such as the ILO conventions.**
- **Information, consultation and participation rights** at work cannot be weakened but instead must be improved and democracy in the workplace has to be reinforced, in particular in the event of restructuring.

Conclusion: as already stated, the stakes of the next EP elections of May 2014 are clear: either putting an end to austerity and social dumping or allowing them to continue. To change course, we need to elect members of Parliament – while respecting the appropriate balance between men and women – who are ready to defend the interests of Europe's citizens, who will steer a change of course and build **another European project based on social progress** with a view to ending austerity, unemployment, poverty, inequality, wage and fiscal dumping in order to rediscover a Europe that makes people dream, a Europe closer to its citizens.

There is a social vision for the European Union. The European Trade Union Confederation (ETUC) (1), the voice of European workers, calls on workers to participate massively in these elections. Each vote will count.

(1) The ETUC has a membership of 85 national trade union organisations from all European countries making a total 60 million members (<http://www.etuc.org/r/5>).

ETUC position on the social dimension of the European Union

Adopted at the Executive Committee Meeting of 23 April 2013

In June 2012 the Executive Committee of the European Trade Union Confederation unanimously called for a “social compact for Europe”. That social compact made clear that Europe’s social dimension must be an integral part of economic and fiscal governance and given equal attention; it also made clear that the overriding objective of economic and fiscal governance should be to generate sustainable growth and employment. ETUC key concerns and priorities regarding the social dimension of the European Union are clearly set in that document (see attachment).

Social achievements and policies at national and EU level have been greatly harmed by macro-economic and labour market policies implemented so far. We need a change of course if social Europe is to become a reality. Without this change ETUC support will be in doubt.

We view the European Council examination of a roadmap for the social dimension of the EMU, including social dialogue, as a step in the right direction because coordinated economic and monetary policies prevailing within a single monetary zone have a direct and powerful impact on labour and social framework conditions.

However the ETUC considers that the proposal to discuss a social dimension of the EMU is too restrictive. The EU as a whole aims at full employment and social progress. Therefore a discussion on the social dimension of the EMU is only acceptable if it triggers social progress in the whole of the European Union.

The EU social dimension must be grounded in the respect of fundamental social rights and the improvement of living and working conditions. It must be directed towards the fight against unemployment, poverty, inequalities, wage and tax dumping. It must promote our successful European social model made of strong social protection, quality public services and social dialogue. The EU social dimension must be real and effective.

Democratic processes and the accountability of EU institutions must be considerably strengthened. The European Parliament should be included on an equal footing in the design of new economic governance instruments. This is indispensable to restore citizens’ and workers’ trust in the European project and in its future potential.

We recall that the social dimension of the EU is rooted in the Lisbon Treaty, including the Charter of fundamental rights, and international instruments¹.

¹ Values of democracy and equality (Art. 2 TEU)

Objectives of social progress, social justice and protection (Art. 3 TEU)

The recognition of the rights, freedoms and principles as set out in the Charter of Fundamental Rights (Art. 6 TEU)

Promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health (Art. 9 TFEU)

The promotion of employment, improved living and working conditions, so as to make possible their harmonization while the improvement is being maintained (Art. 151 TFEU)

The European legislator does not have competence on pay (Art. 153 TFEU)

Promoting the role of social partners, taking into account the diversity of national systems, respecting their autonomy (Art. 152 TFEU)

The European social partners have to be consulted on all matters that concern them (Art. 154 TFEU)

ILO Conventions, the European Convention of Human Rights and the (revised) European Social Charter

Our priorities are therefore to:

- Stop cuts in public spending, social protection and wages. They are unfair, they increase unemployment, inequalities and poverty and they worsen recession.
- Stop competition on wage and working conditions. Stop tax competition, tax fraud, tax evasion. The EU is not only a free trade zone. It aims at full employment, and economic and social progress.
- Put the emphasis on investments for sustainable growth and employment.
- Promote social dialogue and collective bargaining at all levels.

ETUC demands are in line with those priorities:

- A major investment programme – a new “European Recovery Programme” – amounting to one to two per cent of European GDP is indispensable to restore sustainable growth and tackle unemployment.
- Wage setting is to remain a national matter and be dealt with according to national practices and industrial relations systems. Negotiations between social partners at the relevant level are the best tool to secure good wages and working conditions. The statutory minimum wage in those countries where trade unions consider it necessary should be increased substantially; in any event all wage floors should respect Council of Europe standards on fair wages.
- The ETUC supports the introduction of a social minimum income in every Member State on the basis of common European principles.
- Implementation of youth employment initiatives, with particular reference to the youth guarantee, the European quality framework for internship and the alliance for apprenticeship. Means should be mobilised to this end. Restructuring processes leading to massive unemployment must be tackled through anticipation of change.
- Country specific recommendations must promote the European social model. They must not challenge or undercut existing national social standards. The ETUC will engage in discussions on the general criteria and principles set up for country specific evaluations and their consequences. At national level Country Specific Recommendations must be negotiated with social partners. The ETUC will support its affiliates in this process.
- Industrial democracy is an integral part of democratic rights. The Commission must explicitly require Governments and/or social partners to report on social developments, social dialogue and industrial relations. EU social partners and European institutions should follow if and how social dialogue and industrial relations are respected and promoted at national level. Adequate tools should be available to this end.
- Social partners must be included and fully involved on an equal footing in the debate about the design of new instruments, such as automatic stabilisers that mitigate the social effects of asymmetric shocks.
- Growth and the fight against unemployment must be the EU priority. As an immediate step, austerity measures must be stopped; and the fiscal flexibility allowed for in times of economic downturn must be fully used.

- Trade imbalances between countries need to be reduced, in countries with trade deficits as well as in countries with trade surpluses, using increasing demand and imports in surplus countries.
- Contractual arrangements, such as existing Memorandums of Understanding, have been put in place undemocratically and have imposed the wrong policy mix. They infringe collective agreements, industrial relations and social dialogue. The ETUC is opposed to any contractual arrangement of this kind.
- The ETUC recognises the need for policies leading to sound accounts. If certain requirements are met, e.g. full involvement of social partners at national and EU level at all stages of the process and monitoring of the impact on labour standards and social protection, ex-ante evaluation and coordination of national reforms could be positive.
- The economic governance process must include the setting and respect of structural social indicators as well as benchmarking of active labour market policies. The ETUC should be involved in this process.
- Legally binding measures must be taken to stop downward competition on wages and working conditions. Equal treatment must be the rule for all workers. The ETUC reiterates its demand for a Social Progress Protocol to be appended to the Treaties with the aim of securing respect of fundamental social rights.
- Tax competition, tax evasion or avoidance, and tax fraud have shown their devastating impact and must be stopped. ETUC demands a strong and binding action plan to tackle this. The corporate tax base and minimum rates of taxation for companies should be harmonised, possibly with the introduction of a minimum rate of 25%, the current average level of imposition in Europe.

Annex : A Social Compact for Europe
ETUC resolution adopted by the Executive Committee at its meeting on 5-6 June 2012

Gathered within the European Trade Union Confederation, we, trade union leaders of Europe, want to launch an appeal and propose a Social Compact for Europe.

We see increasing inequalities, rising poverty and exclusion, soaring unemployment, work insecurity that affects particularly young people, and growing disillusion about the European project.

We see a worrying increase in nationalism, racism and xenophobia. This trend, exacerbated by low wage competition, could lead to a rejection of the European project that the ETUC has always supported.

We see that the post-war economic and social settlement, which led to the creation of the European Union and the European social model, is threatened. This unique social model has brought considerable gains for citizens and workers and has allowed us to rebuild from crisis to prosperity.

We affirm that fundamental social rights must have priority over economic freedoms. That is the spirit of the Charter of Fundamental Rights integrated in the Treaty of Lisbon. That should be emphasised in a Social Progress Protocol to be appended to the Treaties.

We believe that monetary union must serve the European integration process, based on the principles of peace, democracy and solidarity, as well as economic, social and territorial cohesion. This is the way to secure a future for citizens in a globalised world.

We recall that the EU's stated purpose is economic and social progress. Achieving the EU's 2020 objectives requires socially stable societies, sustainable economic growth and financial institutions serving the real economy.

We believe that it is through social dialogue that we will be able to seek fair and efficient solutions in response to the grave crisis that the Union faces. But, regrettably, we see democracy at work and social dialogue often being disregarded, attacked and undermined.

We call on the EU to focus on policies improving living and working conditions, quality employment, fair wages, equal treatment, effective social dialogue, trade union and other human rights, quality public services, social protection - including fair and sustainable health and pension provisions - as well as an industrial policy favouring a just transition towards a sustainable development model. Such policies would contribute to building citizens' trust in their common future.

We reject all policies leading to downwards competition be it on labour rights, wages, working time, social security, taxes or the environment.

We support coordinated economic policies as well as the objective of sound public accounts but we deplore the economic governance measures put in place that undermine social achievements of the past decades, stifle sustainable development, economic recovery and employment and destroy public services. This is why we oppose the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG).

We are also concerned at the method used to produce the TSCG Treaty that excluded meaningful involvement of the European Parliament and citizens.

We insist that the EU and its member states should observe scrupulously European and international instruments such as ILO conventions, the jurisprudence of the European Court of Human Rights and the revised European Social Charter, to which the European Union should accede as well as to its Protocol providing for a system of collective complaints (1995).

For all these reasons, we demand a Social Compact for Europe, the contents of which we offer to discuss and agree upon at EU tripartite level.

The European Trade Union Confederation considers that the following elements should be included in this Social Compact:

Collective bargaining and Social dialogue:

Free collective bargaining and social dialogue are an integral part of the European Social Model. Both must be guaranteed at the EU and national level. Each member state should put in place the relevant supporting measures;

The autonomy of the social partners at national and European level as well as their role and position must be respected; there must be no unilateral intervention by the public authorities in collective bargaining or existing collective agreements; and coverage of workers by collective agreements should be maximised;

Effective involvement of social partners, as from the diagnostic phase, in European economic governance and national reform plans is essential. Efforts to adapt to changing circumstances should be commensurate with peoples' means and not be borne by workers and their families alone.

Economic governance for sustainable growth and employment:

Urgent measures to bring the sovereign debt crisis to an end and give the ECB the role of lender of last resort, thus enabling it to issue Eurobonds. Growth programmes adapted to each country should be discussed, agreed and monitored with social partners;

European industrial and investment policies aimed at meeting the economic and environmental challenges; priority should be given to investments in sustainable infrastructure, research and development, climate technology and renewable resources. They should not to be included in the calculation of public deficits;

Rules to secure a regulated, solid and transparent financial sector at the service of the real economy;

Extra resources, raised from improved use of the European structural funds, the European Investment Bank, project bonds, and an adequately engineered financial transaction tax, should be allocated to social and environmental purposes;

Stop EU pressure to liberalise public services which are a national responsibility;

Decent wages for all, contributing to growth and internal demand;

A youth guarantee for all young people in Europe, ensuring the provision of a decent job, or of adequate training opportunities, within four months of unemployment or leaving school;

Measures to improve the quality of jobs and combat precarious jobs; fight abuses in the practice of part time, temporary and fixed term contracts;

Active labour market policies including initiatives to support people with little or no links to the labour market.

Economic and social justice:

Redistributive and graduated taxation on income and wealth, and the end of tax havens, tax evasion, tax fraud, corruption and undeclared work;

Determined action against speculation;

Effective measures to secure equal pay and equal rights for work of equal value for all; collective agreements and equal wages should apply to all whatever the form of their contract, specifically when they work at the same work place;

Implementation of policies to end the pay gap between women and men;

Wage-setting to remain a national matter and to be dealt with according to national practices and industrial relation systems. Negotiations between social partners at the relevant level are the best tool to secure good wages and working conditions; the statutory minimum wage, in those countries where trade unions consider it necessary, should be increased substantially. In any event, all wage floors should respect Council of Europe standards on fair wages.

Harmonisation of the corporate tax base and minimum rates of taxation for companies, possibly with the introduction of a minimum rate of 25%, the current average level of imposition in Europe.

We call on European employers' organisations, EU institutions, national governments and supportive organisations to engage in a discussion on this ETUC proposal for a Social Compact for Europe.

THE SOCIAL INVESTMENT PACKAGE

ETUC position adopted at the Extraordinary Executive Meeting of 23 April 2013

Key messages;

- The key concern is that the EU needs real social investment. Social benefits bring value to individuals and to society and therefore it is justified to dedicate adequate budget resources to deliver social benefits and services to the people who are in need and entitled to social rights. Europe needs a real investment package to promote growth, employment and ensure economic and social cohesion. The ETUC has called for an additional investment equivalent to 1-2% of European GDP.
- The ETUC deplors that the Social Investment Package (SIP) will not bring the needed balance to EU governance. The new tools of economic governance primarily focusing on diminished public finances are of a binding nature and risk counteracting the principles of the social investment strategy. ETUC recalls that social policy can only reach its goals if it is embedded in macroeconomic governance and financial regulation that support sustainable growth of wellbeing in the real economy.
- Intervention of profit-seeking actors in social policy, such as health and social services, should be limited and preceded by an impact assessment.
- Child poverty should be addressed through integrated strategies that go beyond children's material security and promote equal opportunities.
- The ETUC will give priority to further developing the policies for a Social Europe and the fight against poverty.

Introduction

The ETUC welcomes the fact that the Commission, with the Social Investment Package (SIP), has recognised the need for social investment in the European Union, but mere recommendations are not enough. The EU must heed the ETUC's long-standing demands for an end to austerity and a reversal of the misguided macroeconomic policies which have led us back to recession.

The pressure on public budgets and the austerity policies adopted over the last few years have not only reduced the investment on social policy, but also led to the weakening of social protection systems and reduction of social benefits.

In times of crisis, high unemployment and less public spending, more people are in need of support and entitled to benefits from the social budget. Increased expenditure in the social budget is not a sign of failure. Social services and benefits serve as stabilisers to the economy and keep up demand in hard times, thus they are drivers for economic recovery in Europe.

The ETUC reminds all decision makers that the size, the structure and the design of social policy are primarily a national competence. Exchange of good practice and coordination, as part of the Open Method of Coordination (OMC) is of course welcome at EU level and is part of the European social model, but every state must still have the responsibility to design its social systems the way they see fit.

The ILO recommendation no 202 on Social Protection Floors should serve as a guide, for the widest possible coverage and higher levels of social protection, combined with an analysis of where there are gaps in the protection and a policy to bridge these gaps. In this context the ETUC would also like to make a reference to the ILO Decent Work Agenda which aims at creating jobs, guaranteeing rights at work, promoting social dialogue and extending social protection as valid also for development of European social policy like the SIP.

The ETUC welcomes and underlines the main argument of the SIP that social policy is considered as an investment for society. However, it must be emphasised that even such social policy measures that not obviously will give economic return in the future are useful and important.

Specific comments

The ETUC calls for a real policy development to promote quality employment, not precarious jobs, that can foster sustainable growth. The role of the social partners, notably within the social dialogue, must be underlined and strengthened.

It is important that social policy is considered as an asset for society, and therefore the ETUC finds it positive that the SIP presents social policy not only as a burden on national budgets. The social perspective must be integrated in all policy areas. Social targets must not be mere rhetoric. Social policy with limited resources cannot remedy the undesired effects of stricter economic policy in general.

Universality is the most suitable way to attain objectives and guarantee social rights for all. Public social protection systems, based on principles like universality and solidarity, are the best way to guarantee adequate and effective social protection to all those in need and to enhance social cohesion. To the ETUC it is important that there is an appropriate balance between universal social policies, aimed at promoting the well-being of all, and targeted approaches aimed at supporting the most disadvantaged.

Social policy is a wide policy area. It covers in-kind benefits like access to child care, education, training during unemployment, elderly care and health care, as well as income support in the form of cash benefits for those who are not able to work due to illness or unemployment and pensions to retired people. Clarity is needed regarding which benefit is under discussion, when it comes for example to the point whether some specific conditions should be met to make the person eligible for the benefit, or if it is a universal entitlement for all in need.

According to the Commission's proposals, benefits should be targeted to those who need them and when they need them. This sounds good, but could lead to negative effects like shorter times that a benefit is provided or more restricted criteria for eligibility.

Social benefits in a variety of cases, for example unemployment benefits, are accompanied by conditionality. Conditionality linked to this kind of benefit can be justified, but the required conditions must be possible to meet, and the individual must be aware of eligibility criteria, and the assessment methods must be well designed and controlled, ensuring that the rights of the people in need are secured and that the conditions are designed to help them, for example find a job. Legal certainty and active state support, e.g. for labour market reintegration, are crucial. Social rights must not be confused with charity.

Regarding child poverty, the ETUC underlines the approach that child poverty and social exclusion should be dealt with through integrated strategies that go beyond ensuring children's material security and promote equal opportunities. Support to parents'

participation in the labour market is important and so is the acknowledgement about intensifying efforts to ensure that all families have effective access to affordable, quality early childhood education and care. Addressing childhood inequalities through eliminating school segregation is also positive.

Social innovation is described as something useful and positive in a context of new challenges. We want to underline the importance of a rights-based approach to social benefits. Innovation may be welcome, but more important is that the rights of the people in need are secured.

Private providers are mentioned in the SIP as a way forward for social policy, both for-profit and not-for-profit. The ETUC underlines that having different kinds of service providers must not be a goal in itself. The main responsibility for providing adequate social protection and benefits is borne by public authorities and politicians. Efficiency, as well as fairness, which should be pursued in order to fulfil general interest objectives, can also be developed in public services by not-for-profit providers, including public service providers. Public procurement must be carried out with caution.

The gender difference is addressed in the SIP. Women have in general a lower rate of social protection coverage and labour force participation than men and the gender pay gap is mentioned. Low wages lead to low benefits from social insurance schemes, including pensions. Women are more likely than men to be poor in old age. The ETUC reminds the decision makers that the social partners must be involved when policy measures regarding these issues are developed.

The European Social Fund is mentioned several times as a source of financing for projects targeting the SIP. The ETUC underlines that the ESF cannot be the main source of funding for the Social Investment Package, or the social investment in general that is needed in Europe. The ETUC's conviction is that even an extensive use of the ESF cannot counterbalance the perverse effects of wrong policies put in place through austerity regimes, which are even worse for the countries under the Troika regime.

To ensure adequate revenues the Commission will, as part of the European Semester, monitor the adequacy of income support in the Member States. The outcome of such a compilation can be of importance to trade unions, so the ETUC reminds the relevant authorities to fully involve the social partners in this mission.

The ETUC supports the idea that the Member States to a larger extent should involve the social partners and relevant civil society organisations in their work with the European Semester, especially on matters regarding policy issues connected to social investment and active inclusion.

The ETUC urges the Commission to clarify how the new recommendations on ex-ante coordination of social policy, aiming at social investment, interlink with the European semester, the Open Method of Coordination and, not to forget, with the measures imposed by the troika in the memorandums of understanding with programme countries. The ETUC reiterates that social policy to a large extent is a national competence. Social policy interacts with other policy areas, like tax policy and family policy. Not all reform proposals can be measured and evaluated with figures and graphs.

The ETUC recalls that the stated purpose of the EU is economic and social progress. We call on the EU to focus on policies improving living and working conditions, quality employment, fair wages, equal treatment, quality public services and social protection including sustainable health and pension provisions. Such policies would contribute to building citizens' trust in our common future.

ANNEX 1

The ETUC position on the current economic governance and Semester process, with regard to their effects on collective bargaining and wage-setting mechanisms

(Final Statement adopted by the Collective Bargaining Coordination Committee in the ETUC Collective Bargaining School, Florence on 10-11 June 2013)

At the end of June 2013, as every year in the framework of the European Semester, the European Council was asked to formally adopt the new proposals on Country Specific Recommendations the European Commission launched at the end of May.

In 2013 the Commission addressed recommendations on wages and collective bargaining to 8 Member States (BE, DE, ES, FI, FR, IT, LUX, SI) plus 4 additional members already subject to a Troika programme (CY, GR, IE, PT).

The general line behind the Commission's 2013 recommendations insists on the idea that downwards wage flexibility is to be the main, if not the only, instrument of adjustment.

This persistent ideology has already led to the undermining of wage formation systems in many Member States with interventions ranging from cuts in minimum wages in some countries to marginalisation or downgrading collective bargaining systems and the role of collectively bargained wages. It has also led to breaches against ILO conventions and the European Charter of Fundamental Rights.

The ETUC is strongly against the continuation and intensification of such policy.

Europe, the Euro Area in particular, is already at a tipping point. Nominal wage dynamics have weakened below 2% and real wages on average in the Euro area have now been falling or stagnating for 4 years in a row. In combination with fiscal austerity and the failure of the ECB to act in a way to restore credit flows to the economy, this has caused domestic demand to fall, resulting in a deep depression attested by six quarters in a row of economic recession. This has also dragged inflation down to levels that are too low and too close to deflation to be compatible with the looked-for economic recovery and sustainable growth (euro area inflation now at 1,2/1,4%). This also threatens the ECB's price stability target of 2% from below.

The ETUC is therefore alarmed by the fact that the Commission's 2013 wage recommendations have the intention to continue with and even intensify this policy of "internal wage devaluations". This will not lead to improved competitiveness, as competitive gains in the European internal market will cancel each other. Instead, the regressive effect of wages being squeezed on domestic demand will dominate, with economic performance and jobs suffering from this. The final result will be a continuing depression, continuing job destruction and low inflation tipping over into straightforward deflation of general falling prices.

It will also lead to rising inequalities with falling wage trends being accompanied by a further increase in profits, dividends, bonuses and CEO pay.

The ETUC regrets that the Commission ignores these dangers. Concluding, as the Commission does in its Euro Area study/recommendation, that the overall trend is fine since wages are

going down in the crisis countries and wages are still going up in stronger economies is simply not sufficient or adequate.

The ETUC insisted and will insist in the future on the Council NOT to adopt the Commission's recommendations on wages, and to request the Commission to undertake a serious analysis of the consequences of 'internal wage devaluations' policies on the whole of the Euro Area/European economy.

The ETUC recalls that article 153 5 of the Treaty excludes the European Union from having competence on wages and insists that the EU institutions are forced, according to the regulations on economic governance, to strictly respect national systems of industrial relations and collective bargaining and the right to bargain and to take actions.

The ETUC supports its members, when requested, in tackling the Commission's wage recommendations by developing discussions/negotiations with their respective Governments, in order to try to influence and modify the approach currently undertaken by the Commission and ensure that the autonomy of social partners in collective bargaining and wage setting at all levels is fully respected.

ETUC conditions for employee financial participation (EFP)

Adopted at the Executive Committee Meeting of 5-6 March 2013

Introduction

Ongoing debates, research studies and recommendations coming from the European Parliament¹ and the European Commission on employee financial participation (EFP) pursue the idea that short termism in shareholder value orientation could be better avoided through better access for employees in profit sharing schemes or share ownership of their company. One point of reference is the report of the European Economic and Social Committee drafted by A. Graf von Schwerin from October 2010.² This report underlines the fact that EFP brings advantages for businesses (increase of productivity and thus competitiveness, improved credit rating, secure business' future etc.), but also for employees (benefit from supplementary remuneration, building up investment capital as additional long term resources, increased participation and having a say in the company's strategy for the future, improved job security, joint approach to restructuring etc.). Open questions remain transferability, taxation and employee participation in the sense of better workers' involvement. Special attention must be given to the risks for the assets of workers who participate in such schemes, as quite important losses are possible.

A new point of reference, recently published, is the Commission's communication of 12 December 2012: "Action Plan: European Company Law and Corporate Governance – a modern legal framework for more engaged shareholders and sustainable companies"³. In it, the Commission explains its intentions in one short point with regard to EFP: The Commission believes that employees' interest in the sustainability of their company is an element of any well-functioning governance framework. The Commission believes that employees becoming shareholders could play an important role. The Commission intends to analyse this subject in more detail, identify and investigate potential obstacles to trans-national employee share ownership schemes and subsequently take appropriate action to encourage it. The Commission will launch a call for a project promoting employees' financial participation in European companies.

In the light of Europe's biggest financial and political crisis, mainly due to high sovereign debts as a result of banking bail outs, the ETUC reiterates its conviction that financial markets need stricter regulation. The most pressing problems are currently high unemployment (particularly for young people), the slowdown of the economy, the negative consequences of ongoing consolidation programmes and austerity, the reform of labour markets, the flexibility agenda etc. EFP schemes are the object of a diversified approach and occupy different positions on the agenda of trade unions in Europe. In the event of crisis, being tackled by management and workforce jointly,

¹ <http://www.europarl.europa.eu/committees/fr/studiesdownload.html?languageDocument=EN&file=76091>

² <http://www.eesc.europa.eu/?i=portal.en.soc-opinions.11454>

³ http://ec.europa.eu/internal_market/company/modern/index_en.htm

EFP could be considered as a tool to stabilize a company and to ensure long-term employee participation in the recovery of the company.

In view of these different European debates, the ETUC Worker Participation working group proposed to reiterate the joint trade union view already developed ten years ago and to update this position where necessary. The following updated position on core principles on financial participation is therefore based on the previous resolution adopted by the ETUC Executive Committee 19-20/11/2002⁴.

Common principles

The ETUC underlines that Social Partners and Member States have a key role. In Member States there are several forms of EFP depending on national circumstances and industrial relations. Employee attitudes and preferences are also different. The ETUC recalls that it puts wage negotiations at the top of the agenda, as well as a secure and transparent income for workers. The ETUC can only subscribe to EFP if the following prerequisites are met:

a) EFP has to be embedded in a whole system of worker involvement at all levels. One element should not compete with other elements or replace it. The different participation models should complement each other as in the triangle of information, consultation and participation each being beneficial for well functioning corporate governance. Schemes should include the possibility, in those countries where these systems exist, of employee representatives in company decision making, preferably through seats on the board.

b) EFP should always provide additional income and not be a substitute for fair pay. EFP should not be considered as an alternative to collective bargaining and to wage increases. Financial participation is equally not an alternative to public pensions or to collectively agreed pension schemes. Negative effects of the fiscal or parafiscal status of financial participation on national systems of social security have to be compensated. Employees have the right to get their fair share of the results of a company and their income must represent a fair share of the national income. However, the trend is going into the opposite direction: the classic indicator of income inequality, the GINI coefficients, has increased in most OECD countries in recent years⁵. Under no circumstances should EFP worsen inequalities of income inside a company or in society..

c) EFP schemes must be open to all workers within the company, including part-time workers.

d) The introduction and design of EFP should be the subject of prior consultation and agreement with worker representatives and trade unions. The details of EFP have to be introduced through negotiations between social partners and collective agreements should set the framework for EFP. Collective funds are a form of EFP which is safer than others. The funds should be protected from insolvency. Provisions for the case of insolvency should be established.

⁴ [ETUC Resolutions 2002 p.31](#)

⁵ *Spain, Portugal, Ireland, Greece and Italy are at the top of the GINI ranking, with the highest level of inequality. On the other hand, Finland, the Netherlands and Austria show much less inequality. Belgium, Germany and France are in the middle.*

e) Collective ownership of shares in a trust is preferable to individual share ownership as this will enhance workers' voice in the company. Shares should be allocated on an equitable basis to avoid reinforcing existing pay differentials. Allocation should not depend on the ability of workers to buy shares, as this will reinforce existing pay differentials.

f) Special attention must be given to the impact on gender equality.

Only with these conditions fulfilled can EFP have a positive effect.

ETUC Resolution on EU Investment Policy

Adopted at the Executive Committee meeting of 5-6 March 2013

Foreign direct investment (FDI) can play a positive role by creating decent jobs, improving productivity, investing in skills and technology transfer, supporting economic diversification and the development of local firms and aiding with a just transition to a green economy, all key goals of the Europe 2020 strategy. However, FDI can also undermine decent work, sustainability, distribution and general well-being especially where host states are unable to enact or enforce appropriate laws and policies.

Foreign direct investment into and out of Europe should respect the fundamental principles of the EU. Specifically, the Lisbon Treaty sets out the fundamental principles on which EU external action should be based, namely democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity. These should be guaranteed in relation to both European and national policies on investment.

With adoption of the Lisbon Treaty the European Commission has been given an extended competence to negotiate investment agreements with 3rd countries. As a result, the EU has launched and/or is preparing negotiations on comprehensive investment chapters within its bilateral trade negotiations, as well as negotiations for bilateral investment treaties (notably with China).

While investors should enjoy appropriate protections for their investments under bilateral investment treaties or the investment chapters of trade agreements, such protection should not be at the expense of the host states' right to regulate, or civil society or domestic firms. States need domestic policy space to meet important public policy objectives, including labour rights, environmental protection, the provision of public goods (health, education and social security) as well as the development of coherent industrial policies.

As former UN Special Representative on Business and Human Rights, John Ruggie said: "...investor protections have expanded with little regard to States' duties to protect [human rights], skewing the balance between the two. Consequently, host States can find it difficult to strengthen domestic social and environmental standards, including those related to human rights, without fear of foreign investor challenge, which can take place under binding international arbitration."¹

As the ILO MNE Declaration states: "Multinational enterprises, particularly when operating in developing countries, should endeavour to increase employment opportunities and standards, taking into account the employment policies and objectives of the governments, as well as security of employment and the long-term development of the enterprise".

The EU has indicated that it will not develop a "model text" for investment treaties, however it is nevertheless using a de facto text. The ETUC demands that the EU enter into proper consultations with trade unions and civil society on these texts. The EU should ensure that it guarantees transparency and coherence in its policy formulation in this area.

European states have typically concluded investment treaties that provide extensive protection for foreign investors. Yet the increasing use of such protections by foreign

¹ <http://www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf> page 11

investors to sue host governments, has strengthened calls to protect and safeguard the rights of states to regulate under such treaties. While the European Parliament has acknowledged such concerns, the EU's negotiating mandate for current negotiations on investment with Canada, India and Singapore fails to address such concerns.²

The ETUC is concerned that investors have challenged states in international tribunals in numerous cases for enacting or carrying out public interest laws and regulations. This has included cases of investors suing EU member states, as well as EU-based investors suing developing country governments. For example, French multinational Veolia is currently attempting to sue the Egyptian government, among other things, over recent increases in the minimum wage. And earlier in June 2012, Vattenfall filed a case against the German government for restricting the use of nuclear power. In this way, multinational companies are using investor protection rules and investor-state dispute settlement as a means of achieving corporate aims, increasing the cost to the taxpayer of defending public policy and rules.

The ETUC welcomes the new UNCTAD position (2012 Global Investment Report) on sustainable development and investment policies.³ We also acknowledge the nascent debate in DG Trade on sustainable development, although the ETUC is concerned that the Commission's approach remains orthodox in this regard and ignores the reality on the ground of challenges to worker rights, especially core labour standards, and public policy prerogatives.

As the Commission is developing its mandate in investment policy and various negotiations are on-going and a new raft are in preparation, the ETUC has developed this position to ensure a clear trade union position on the matter, and benchmark EU negotiating positions and agreements according to set of detailed recommendations (Annex 1), covering the rights and obligations of states and investors, the promotion of human rights (including labour rights) and environmental protection, and provisions on dispute settlement. The ETUC urges that the EU adopt investment policies that fully address the well-founded concerns expressed in the Annex attached.¹¹ On the basis of this resolution, the ETUC will:

- Develop a model investment chapter in a participatory process to engage affiliates on the importance of investment policy frameworks for trade unions;
- Undertake a range of activities to influence the EU in the development of its new investment policy;
- Coordinate and cooperate actively with the ITUC and TUAC to better address the EU's position in international and OECD negotiations on investment and dispute settlement rules, and strengthen coordination around the new OECD Multinational Guidelines, as well as ILO standards;
- Develop strategies to hold multinationals accountable for their own commitments to social and environmental responsibility, notably the ETUC encourages greater engagement of national affiliates with OECD contact points in their countries.

² <http://www.s2bnetwork.org/themes/eu-investment-policy/eu-documents/text-of-themandates.html>

³ <http://www.unctad-docs.org/files/UNCTADWIR2012-Full-en.pdf>

Annex 1: Detailed ETUC Recommendations on EU investment chapters and agreements

I. Rights and Obligations of States

The European Parliament, Commission and Council have all indicated support for investment treaties that do not restrict the ability of member states to take measures necessary to pursue legitimate public policy objectives. However, most clauses under investment treaties, if drafted too broadly, can restrict the right of host states to regulate in the public interest. We therefore urge the EU to ensure that the following issues are addressed in any future agreement:

- **National Treatment (NT):** In some cases, BITs include expansive liberalization commitments by providing for pre-establishment rights, which limits the state's discretion to regulate the entry of foreign investors. National treatment clauses should not apply to the pre-establishment phases of foreign investment. Further, the non-discrimination principle can be interpreted by tribunals as prohibiting regulatory actions that result in "de facto" discrimination, even when there is no facial or intentional discrimination. Thus, this principle should be limited to regulatory measures enacted primarily for a discriminatory purpose.
- **Most Favoured Nation (MFN):** Recently, some arbitrators have ruled that MFN clauses may allow investors to invoke greater investor protections found in third-party agreements – allowing the agreement between the home and host states of the investor to be (selectively) circumvented. This must not be permitted. The EU should make it clear that any MFN clause cannot be used to cherry-pick protections in third-party agreements. Worryingly for the ETUC, the Council has called for "unqualified most favoured national treatment" to be secured in negotiations with India, Singapore and Canada.
- **Protecting key public policy tools from NT and MFN obligations:** we recommend specific carve-outs from these obligations for policy measures or policy areas, such as subsidies, procurement, tax, essential public services, and specific industries and regulatory measures.
- **Expropriation:** Broad definitions of expropriation, and in particular indirect expropriation, have allowed investors to challenge a range of host state actions taken in the public interest on the dubious grounds that these actions constitute forms of "indirect expropriation". The EU must distinguish clearly between expropriatory acts and legitimate regulation. A definition of indirect expropriation should be limited to the situation in which a host state appropriates an investment for its own use, or the use of a third party. Regulatory measures that may adversely affect the value of an investment, but do not transfer ownership should not constitute indirect expropriation.
- **Fair and Equitable Treatment:** Arbitrators have also given wide-ranging interpretations of fair and equitable treatment, imposing on states any number of unforeseen limitations on state regulatory power. For example, an investor used the Fair and Equitable Treatment (FET) Clause to challenge South Africa's Black Economic Empowerment programme, a set of policies meant to help historically disadvantaged South Africans through affirmative action in employment, preferential access to procurement contracts and divestment requirements. The claim was dropped only after years of litigation. The EU must ensure that FET is not extended beyond its limited interpretation in customary international law (CIL). The BIT should clearly set forth the proper standard for establishing CIL, as arbitrators are frequently look to the decisions of other arbitrators rather than the practice of states in order to ascertain the existence of a custom.

- **Full protection and security (FPS):** The boundaries of this obligation are not entirely clear; however, international arbitrators have found that it requires that states provide at least a baseline of police protection for foreign-owned projects. This requires a certain level of due diligence by the host country. Some arbitrators have also held that this includes not only the physical protection of foreign-owned investments, but also security from other forms of harassment which pose no physical threat to assets or threat of violence. This legal uncertainty puts states in a difficult position. Indeed, FPS has been used by investors to sue government when workers have gone on strike against a company or in cases of mass demonstrations. The EU must make clear that the FPS clause is limited only to physical protection, and that non-violent demonstrations or strikes are part of freedom of association, as the ILO MNE Declaration states: "Where governments of host countries offer special incentives to attract foreign investment, these incentives should not include any limitation of the workers' freedom of association or the right to organize and bargain collectively"..
- **Definitions:** The definitions of "investor" and "investment" should only protect lasting or significant interests in a foreign enterprise rather than questionable forms of investment such as financial speculation. A clear definition of investment should be adopted that excludes: risky financial instruments such as futures, options and derivatives; sovereign debt (to ensure that debt restructuring is not subject to investor claims); any investment that fails to comply with the laws of the host state, or causes or contributes to serious adverse human and labour rights impacts; intellectual property rights that might inhibit public goods; and so-called "mailbox companies" which establish a minimal presence in a country to enjoy protection under investment treaties.
- **Umbrella Clauses:** Investment treaties should not contain clauses which import investors' contractual rights into the treaties, giving it far stronger protection. A common issue arising in this context is a contractual stabilization clause, which attempts to insulate investors from changes in law or governmental decisions taken after the effective date of the agreement. Of course, EU investment policy should never itself include a stabilisation clause.
- **Transfers:** investment treaties usually allow investors to freely transfer funds abroad. However, states may have legitimate reasons to limit or temporarily suspend such transfers, especially in the case of balance of payment problems. EU investment policy should not prevent the use of capital controls to address balance of payments and external financial difficulties or threats, or restrict transfers where an investor has broken a domestic law.

II. Rights and Obligations of Investors

Despite the global rise in business-related human rights and environmental abuses (widely documented by the former UN Special Representative on Business and Human Rights, NCPs in the framework of OECD Guidelines, EU documents, etc.), most investment agreements provide protections for investors but only impose obligations on states. Investment agreements need to ensure at the very least that investors respect the laws of the host state when establishing and operating an investment. Where they fail to do so they should be denied the protections afforded by the treaty.

Where investment is included within a Free Trade Agreement, it should be subject to the responsibilities set out in the sustainable development chapter.

Fundamentally, investors should comply with relevant international guidelines and standards, including the responsibility to respect the ILO core labour standards and other human rights under the ILO MNE Declaration, the UN Guiding Principles on

Business and Human Rights, and the OECD Guidelines for Multinational Enterprises as called for by the European Parliament. There are various ways to ensure this. One way would be to foreclose access to ISDS if investors cause or contribute to serious adverse human rights impacts in the host state or commit a serious breach of the OECD Guidelines. Host states should be able to rely on this argument as a defence to a claim, with the question determined by appropriately qualified arbitrators.

III. Promotion of human rights, labour rights and environmental standards.

Exclusion: Any EU investment must make clear that any regulatory actions by a Party that is designed and applied to protect legitimate public welfare objectives, such as public health, safety, human rights, labour and the environment, do not constitute a violation of the agreement/expropriation.

Promotion: At the same time, the investment agreement should explicitly promote these rights. For example, there must be strong and unambiguous references to the requirement that both parties commit themselves to the ratification and effective implementation of ILO core labour standards and other basic decent work components.⁴ Both parties should submit regular reports on the implementation of these commitments.

Sanctions: Failure to effectively implement these conventions in practice should be subject to an appropriate dispute settlement mechanism, including a means for non-state actors (such as trade unions) to submit evidence, and with the possibility for withdrawal of benefits where the state fails to comply with its obligations. If investors do not comply with the ILO Standards it should be possible to use the general dispute settlement mechanism to solve the conflict. If a solution cannot be reached, sanctions in the form of substantial fines should be imposed after the general dispute resolution mechanisms have been exhausted.

Non-Derogation: Both parties must include a non-derogation clause committing to not lower labour or environmental standards (or offer to do so) in order to attract foreign investment. Such an obligation must specify that it extends to all parts of their territories, so as to prevent the agreement resulting in an expansion of production in export processing zones (EPZs).

Impact assessments: Both parties must commit to undertake human rights impact assessments and take action based on their findings. These impact assessments should consider all relevant aspects of the social and environment impact of agreements including access to quality public services, and the use of differing policies to achieve industrial development. The EU should be guided by the jurisprudence of the ILO and its supervisory mechanism, the work of Olivier de Schutter, and the UN Guiding Principles on human rights impact assessments of trade and investment agreements.

⁴ In addition to co-operation regarding the core labour standards, there are other important ILO conventions relevant to decent work that should be encompassed in the agreement. These include those identified as "priority conventions" by the ILO Governing Body in its 1993 decision (Convention 122 on Employment Policy, Conventions 81 and 129 on Labour Inspection and Convention 144 on Tripartite Consultation), other Conventions enjoying widespread support at the ILO (including Convention 155 on Occupational Safety and Health, Convention 102 on Social Security, Convention 103 on Maternity Protection, and Convention 135 on Workers' Representatives), and certain other essential ILO instruments (namely the Promotion of Cooperatives Recommendation, 2002 (No. 193), the Human Resources Development Recommendation, 2004 (No. 195) and the Employment Relationship Recommendation, 2006 (No. 198)).

IV. Dispute Settlement

Investment treaties typically have “investor-state” dispute settlement (ISDS) procedures that allow investors to by-pass domestic legal systems of host states to seek enforcement of their rights under international arbitration bodies. ISDS has been rightly criticized as a powerful tool which has been abused to challenge measures meant to promote the public interest and thus interfering with legitimate policies and policymaking. Indeed, UNCTAD reports that states have faced claims of up to \$114 billion and awards of up to \$867 million. This does not include the costs of legal defence and related costs.

To rebalance this situation, the ETUC calls for:

- a) **State-to-state dispute resolution only:** This would guarantee the crucial role of governments in determining and protecting the public interest.
- b) **Exhaustion of domestic remedies:** If the EU continues to support ISDS, then investors should be required, where appropriate, to exhaust domestic remedies within the host state before being able to file a claim under ISDS unless futility is demonstrated. This would ensure the sovereign right of host states to address claims through their domestic legal systems. In countries with weaker legal systems, this would assist with their strengthening, without needing to deny investors possible recourse to ISDS. This would partly rebalance the rights that foreign investors have over domestic business, as well as trade union, environment and human rights organisations.
- c) **Investor Screen:** the EU should adopt a “screen” that allows the governments to prevent claims that are inappropriate, without merit, or would cause serious public harm. The US government have introduced this for some public policy areas such as tax and financial regulation. The EU should include it for all areas in the public interest.
- d) **Reforming ISDS Procedures:** ISDS mechanisms must be transparent in all regards, and allow for the filing of Amicus Curiae submissions, as the Commission and the Parliament have noted. To ensure that arbitrators make high quality and consistent decisions, free of conflicts of interest, the ISDS should contain appellate mechanisms, and appropriate criteria for selection of arbitrators to prevent conflicts of interest.
- e) **Scope of investor-state provisions:** where investor-state provisions are included their scope must be clearly delimited to give adequate public policy space and ensure the integrity of human rights, public interest objectives (including fundamental labour rights, protection of public, health, security, rights of employees, social legislation, human, rights, financial market regulation, industrial, policy and tax policy and environmental protection) have to be exempted from the scope of the investment protection chapter.

ACTION PLAN ON MIGRATION

Adopted at the ETUC Executive Committee Meeting of 5-6 March 2013

INTRODUCTION

European migration policy is being deployed in a new institutional environment in which the European Parliament can intervene as co-legislator. It has opened doors to the greater involvement of civil society in a consultative role, from which the ETUC has benefitted as well.

The next five-year programme 2014-2018 of DG Home Affairs, replacing the Stockholm Programme, is expected to usher in a new narrative on the migration phenomenon in Europe: ETUC insists that this programme must lead to a coherent and comprehensive policy in which respect for individual fundamental rights, equal treatment and integration will be high on the agenda, producing actions and not just announcements.

The Europe 2020 strategy stresses the contribution of migrants to the EU economy for smart, sustainable and inclusive growth. The flagship initiative on the Fight Against Poverty acknowledges that third country nationals are often underemployed and closer to the edge of poverty.

The EU has directed all its efforts towards better controlling migration flows setting great store on selectivity (high skilled people) and circularity (for predetermined periods of time). This ideology overlooks the fact that about 20 million people live and work in Europe with the status of non-EU nationals. The number of foreign-born people is significantly higher because many have been nationalized or obtained citizenship. The European migration policy cannot achieve its integration objectives if it does not pay attention to the living and working conditions of these tens of millions of people.

Migration is considered as a tool to counter demographic decline and labour market shortages. However, EU policies should be based on solid analysis but currently aggregate statistics remain fragmented and heterogeneous. Trade unions can provide the facts to create a more reliable picture of the migration phenomenon.

The current economic downturn has also shown how precarious the situation of third-country nationals is in the labour market. The unemployment rate among third-country nationals is permanently and everywhere above the average for national workers. Furthermore, there is evidence of social dumping and discrimination regarding equal remuneration, over-qualification, and access to labour market facilities, just to mention the most obvious examples. Specific attention to the gender dimension of migration policies is also required.

The ETUC recognizes that attracting highly skilled/educated migrants is an important element in the global strategy for a more effective migration policy. But the ETUC exhorts policy makers to bear in mind that low-skilled migrants remain the largest majority of the third-country population in Europe and that they suffer from direct or indirect discrimination. The low-skilled migrants and their family members are at higher risk of social exclusion, especially in terms of access to the labour market, education and training and social services.

Making Europe attractive for the most highly qualified migrants remains a priority on the EU agenda. But, while enhancing its position in the global rush for “best brains”, the EU

should remain coherent with its fundamental values. On the one hand, EU and MS legislation should ensure attractiveness and proper entry into the labour market for the migrants, according to their competences. On the other hand, the EU, as a global actor, should prevent the brain-drain from contributing to the impoverishment of the labour market and becoming a threat to the social cohesion of the sending countries for example by guaranteeing ethical recruitment practices.

Irregular migration appears on the EU agenda in terms of repressive policies only. In recent times we have all witnessed the pushing back of migrants in violation of international standards betraying those fundamental rights on which the Union itself is founded. Other forms of criminalization of migrants result in unjustified restrictions on individual freedoms, such as the forced detention of migrants without documents.

ETUC POLICY AND ACTIONS

EU2020 strategy and the contribution of migrants to the EU economy

The ETUC rejects the idea that future migration policies could be driven solely by utilitarian aims. The ETUC supports the approach aimed at demonstrating the positive and concrete contribution that migrants already make to the European economy. At the same time, the ETUC underlines the need to consider migrants as workers of course but also and primarily as human beings, to whom equal human and social rights must be ensured to the same extent as those of its European citizens, as well as the right to free and fair mobility and to equal treatment in the workplace.

We expect that demography and labour market arguments will continue to influence EU policies in the migration field. It represents an area of engagement for the ETUC, as well. The ETUC will show how migrants already contribute to the sustainability of economies and welfare systems. The ETUC action will also be aimed at showing how much value migrants bring in terms of dynamism and a cultural enrichment of the local communities in which they settle.

A common EU policy should be designed that offers a wide range of instruments to suit different policy options, including harmonized legal frameworks for both stable and temporary migration. However the ETUC denounces an excessive stress on the concept of circular migration. The current European acquis, driven by a predetermined temporariness and selectivity of newcomers, hinders the implementation of the equal treatment of third-country nationals in the labour market and in the workplace. The shorter the permit to stay and work is, the lower the chances for migrants to see their rights recognized and respected or for social dumping to be prevented. The ETUC will advocate for the removal of factors of vulnerability of migrants in the labour market especially when they result from precarious short-term work/residence permits.

The ETUC would also raise the attention on the abuses in the employment of third-country nationals for short periods. Seasonal employment, especially in agriculture and construction sectors, records higher levels of exploitation of migrants. More effective and dissuasive sanctions should also include the exclusion from (or the pay-back of) subsidies received by the employer under European or national aid programmes (e.g. C.A.P.).

The integration in the labour market covers both the private and public sectors. In many member states, public employment of third-country nationals is not permitted. The ETUC will advocate in favour of removing obstacles for third country nationals to be admitted to the public services employment, at least as long as the exercise of public authority is not concerned.)

The recognition of diplomas and professional qualifications remains a concrete tool for faster integration into the labour market. It goes along with access to employment services, as well as to lifelong learning and requalification paths, for those who remain unemployed or who want to change employer during the period of validity of their work permit. For young migrants, equal treatment should imply access to apprenticeships and other ways of combining education and work. For migrants and their children and family members the right to access to public education and training should be ensured, regardless of their regular or undocumented status. Furthermore, full equal access to education and training should be ensured for third country nationals and EU citizens who move across EU countries.

The EU is currently negotiating or about to start negotiations on, a number of bilateral and multilateral trade agreements, which have as their subject or which include provisions on the trade involving services. Whereas the trade involving services involving cross-border labour mobility often make valuable contributions to the economy of Member States and can be of great importance to the competitiveness of European companies, it also includes the risk of migrant workers receiving wages and working conditions below host country standards. Trade agreements entered into by the EU must allow for the effective enforcement of the equal treatment principle, including making cross-border mobility conditional on equal treatment in terms of wages and working conditions.

The new five-year programme 2014-2018 of DG Home Affairs

The definition of the EU Programme 2014-2018 in the area of freedom, security and justice will set the key policy framework in the field of migration. The ETUC will be involved in the preparation, implementation and monitoring of such a programme.

The ETUC will prioritise the following:

A rights-based approach and equal treatment: It is necessary for the rights-based approach to be mainstreamed in all dimensions of the migration policy. The Charter of Fundamental Rights of the European Union and all relevant international standards of the ILO, UN and Council of Europe point out a set of individual rights that must be embodied in the EU legislation. The principle of equal treatment is fundamental in order to tackle both the non-discrimination and integration paths, as well as to avoid social dumping and to support the regularization processes. It must be mainstreamed throughout the EU acquis relating to labour migration and it must be fully ensured at the different levels (European, national, sectoral, company), as well as in all legal frameworks, in any kind of collective bargaining agreements and in the access to public services and social protection benefits.

Legal channels: The single-permit procedure should be enhanced as far as it increases transparency and accessibility of procedures for admission. All the existing and future EU legal tools in this field should be better coordinated and should implement the equal treatment principle in a coherent and homogeneous way. This objective has to be better achieved through a proposal for a framework directive on conditions of work and equal treatment for third country nationals.

Integration of migrants: This policy must be reinforced and become a complement to the EU legislation. It means that measures and facilities for integration must be mainstreamed into all aspects of the migration policy. On the other hand, it must be ensured that the same measures and facilities (i.e. cultural and linguistic tests, compulsory attendance at training courses, etc.) for integration are not misused with the intention of introducing obstacles to the implementation of the rights of third-country nationals or their families (e.g. the right of family reunification).

International dimension: The EU must be the bulwark against the drift towards populism and xenophobia and be faithful to its fundamental values when acting in the ILO, the UN and other relevant international bodies. The ETUC, in accordance and cooperation with the ITUC, will also make the EU voice speak words of social dialogue and social progress within international governmental bodies with specific responsibilities in the migration fields.

Undocumented migrants: The EU common policy should also ensure a minimum level of protection for undocumented migrants and their families, for instance, access to healthcare services, education and other fundamental public services as called for by Protocol 26 on services of general interest and the Charter of Fundamental Rights. Family members deserve specific measures as empirical evidence shows a greater rate of social exclusion among these groups.

A new direction is needed in the Common migration policy aimed at exploring possible European framework-setting criteria for the regularisation of or granting of amnesties to undocumented migrants. While fully respecting Member State prerogatives, this framework should be aimed at building mutual trust among Member States and at clarifying the conditions and criteria under which individual undocumented migrants can benefit from regularisation/amnesty schemes.

Partnership principle: Permanent consultation with trade unions must be maintained and enhanced to achieve more effective European legislation and integration policy.

The ETUC agenda for integration and inclusion

The ETUC will advocate the two-way process¹ of integration and a greater participation of migrants in the civic, cultural, economic and political life of hosting communities. However, integration into the labour market should be a key priority for the trade union movement.

Moreover, the integration of migrants must be pursued beyond the labour market. The right to vote in local elections will be promoted both as a fundamental right and as the recognition of a successful path toward a complete integration in the hosting community. The Convention of the Council Europe n.144, Chapter C, goes in this direction and stands as a valuable legal reference for all Member States. The integration process should encourage the achievement of long-term residence status and citizenship must be seen as the formal final act in the integration process.

The achievement of the Long-Term Residence Status represents the highest level of protection under EU legislation, but there are evident failings in the implementation of the EU Directive 2003/109. Its enforcement could be improved by removing some persisting discriminatory factors such as intra-EU mobility, access to the labour market and employment in the public sector as long as the exercise of public authority is not concerned. If necessary, the Directive may be revised to speed up the harmonization of national legislations in this field.

The ETUC will advocate the prompt restoration of a suitable level of public expenditure to provide services to migrants, such as integration facilities, assistance to migrants and permit/visa delivery. Well-funded public services represent a necessary platform for integration that should be complemented by services provided by mainstream organisations in civil society.

¹ *The terms 'two-way process of integration' and 'integration through participation' identify two pillars of the EU integration policy. The two-way process of integration is a dynamic process of mutual accommodation by all immigrants and residents of Member States'*

Trade union membership is a path towards integration through participation. Trade union activism, from simple membership to active participation in the life of the organisations, represents a concrete step towards the deeper inclusion of migrants in the hosting communities.

It is time to address the issue of regularisation and amnesty for undocumented migrants in a more open and frank debate. Granted that a person's migration status should not influence his or her labour law status, the ETUC will advocate measures aimed at helping millions of third-country nationals to make the transition to a full regular status. Member States when seeking to ensure the transition to regularity of undocumented migrants must be selective and favour those who have shown great potential for integration, for living and working in a regularised situation.

The migration policy should also be integrated into a more far-sighted and compelling common policy for asylum seekers, refugees and fugitives. It is a long-standing issue and it is time for Member States to show greater respect for the protection and dignity of human lives, especially minors. Closer cooperation with the origin and transit countries must be at the core of the fight against the trafficking and smuggling of human beings.

ETUC actions

The ETUC will increase its dialogue with institutional actors and civil society on the preparation, implementation and monitoring of the next five-year programme of DG Home Affairs. Such a dialogue will be aimed at advocating the priorities and positions agreed in this Action Plan and in the background Orientation Document. The Executive Committee will be informed about the possible contents of the five-year programme, and the following ETUC actions.

For that purpose, an analysis of the EU acquis on labour migration must be carried out with the aim of mainstreaming social rights and equal treatment in EU legislation. This exercise shall re-launch the proposal for a framework directive for setting minimum rights and equal treatment of third-country nationals working in a Member State.

This mainstreaming exercise will be developed in progressive steps starting from directives subject to a legislative process (e.g. Seasonal Migrants, Intra Corporate Transferees, Unremunerated Trainees and Volunteers, Researchers, School Pupils and Students). Attention will then shift to Directives whose transposition laws and enforcement rules are under assessment: the Family Reunification Directive and Long-Term Residence Directive must be top priorities. The social aspects of some other Directives must be mainstreamed once a significant period has passed after their entry into force such as the Return Directive and the Employers' Sanction Directive.

The ETUC will advocate the enforcement of all international acts on migration, including the ILO Convention n.97 (Migration for Employment, 1949 revised), the ILO Convention n.143 (Migrant Workers, Supplementary Provisions, 1975), the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention of the Council of Europe and the Council of Europe's Convention n.144 on the Participation of Foreigners in Public Life at Local Level.

The ETUC will take the initiative, along with the European Commission, to explore possible action to encourage Member States towards a coordinated and quick

ratification of the ILO Convention on Domestic Work. The European Commission will ask the Council to adopt the nulla osta to the ratification, but this is not enough. Cooperation between the ETUC, DG Employment and DG Home Affairs may lead to further action including a soft law act to enable the ILO Convention to be transposed more quickly, embodying an EU extra value.

The ETUC will follow the broad debate that is currently engaging European actors on the contribution of migrants to the EU economy. A step forward will be the publication of the Indicators of Migrants' Integration developed by DG Home Affairs. They will fill in some of the gaps in the statistical collection of data and reliable analysis.

The European Integration Forum will remain a relevant consultative platform for making our positions heard. The ETUC will work to ensure a larger involvement of its members and trade union-related actors in the Forum.

Migration is already recognised as a field of action for social dialogue. European social partners at cross-sector and sector level can jointly address mobility and economic issues linked to migration, as well as promote the integration of migrant workers in the labour market and at the workplace. In this sense, the **EPSU- HOSPEEM code of conduct and follow-up on Ethical Cross-Border Recruitment and Retention in the Hospital Sector stands as a good practice**. Within the framework of the Work Programme 2012-2014 the ETUC and its affiliates will promote further actions in support of the integration of migrants and their contribution to the sustainability of the European Economic and Social model.

The ETUC will collect and spread best practices of collective bargaining as an instrument to improve diversity management in the workplace and adjust current rules bearing in mind the implications of a larger presence of third-country nationals in the workplace and in the labour market.

The ETUC agenda must also include an autonomous programme for integration, including concrete measures and measurable results. Such a programme should be based on the increased capacity of trade unions to increase the membership of migrants in trade unions, on the enhanced capacity of migrants to take part in democratic life, including through their presence in elected positions. It will constitute a benchmark for the effectiveness of trade union action in approaching and offering membership to migrant populations.

On this basis, the ETUC will establish a European network of trade union contact points for integration providing assistance to migrants. The network will be based on the existing contact points and facilities for the integration of migrants by ETUC members and will encourage other ETUC members to benefit from best practices in this field. The European dimension of the network will improve the accessibility and visibility of the services and facilities that trade unions make available to the migrant population in Europe. The first convention of trade union contact points for migrants in Europe will be organised in 2014. The ETUC secretariat will explore opportunities provided by the EU budgets to raise funds to implement this network.

Declaration of the Executive Committee on the proposed roadmap for a social dimension of the EMU, including social dialogue.

Adopted at the ETUC Executive Committee on 5-6 March 2013

The ETUC considers that the proposal to discuss a social dimension of the EMU is too restrictive. Our commitment to the process of European integration depends on the fact that Europe is not a free trade zone, but an area whose objectives are economic and social progress. Therefore a discussion on the social dimension of the EMU is only acceptable if it triggers social progress in the whole of the European Union.

ETUC opposes current austerity policies. They are implemented to the detriment of working people and citizens who have been made the variable of adjustment. This is not acceptable. These policies are also counterproductive and are having a negative impact on the EU's economy. The financial sector has been saved, at an unsustainable cost. There can be no social dimension whether in the EU or in the EMU without a change in these policies. The ETUC will continue to mobilise towards that end.

ETUC considers that a roadmap on the social dimension of the EMU, in the framework of increased policy coordinations should aim at upward convergence to deal with inequalities, poverty, unemployment and precarious work that are ethically unacceptable and are creating a social emergency. There can be no sustainable economic governance and coordination of policies if these injustices are not addressed.

ETUC demands new large scale investment plans equal to at least 1 % of EU GDP annually to promote sustainable growth and jobs. The current MFF proposals are a retrograde step and totally inadequate to meet our objectives.

The ETUC strongly underlines that social partners must be included and fully involved on an equal footing in the debate about the design of new coordination instruments. There should be effective guarantees at all stages that trade union rights and fundamental rights will be respected and promoted, particularly the autonomy of collective bargaining.

Contractual arrangements in the form of memoranda have been put in place undemocratically and have imposed the wrong policy mix. They infringe collective agreements, industrial relations and social dialogue. This should not apply to any contractual arrangement. Financial support has been made conditional for such contractual arrangements. The ETUC opposes this unfair and undemocratic approach.

On the basis of the Social Compact it has already proposed, the ETUC will further develop its position and press its policies in the context of the debate on the social dimension of the EU and EMU.

ETUC position on insolvency

Adopted at the ETUC Executive Committee on 5-6 March 2013

The ETUC welcomes the revision of the Regulation on insolvency proceedings¹. It is essential to improve the protection of workers against the threat of insolvency and to strengthen their position in the case of insolvency, especially in the current context where the risk that companies are becoming unable to meet their responsibilities towards their workers is dramatically increasing.

In insolvency proceedings workers need to be protected with regard to a) the continuity of their employment contracts, b) the issue of whether businesses can continue to operate during insolvency, and c) their outstanding claims.

The ETUC welcomes the fact that the Regulation recognises that worker interests, as well as the interests of other stakeholders, can often be better protected if legal alternatives to liquidation are provided. The proposal improves the possibility of pre-insolvency proceedings with the aim of rescuing the company and adjusting debt.

The best protection of workers against insolvency is often to avoid the bankruptcy of the undertaking. Therefore minimum capital requirements for companies need to be strengthened, so as to increase companies' financial buffers against temporary economic difficulties. Furthermore it is important that pre-insolvency proceedings serve to avoid bankruptcies, and protection of workers' interests in these proceedings needs to be improved.

Currently secondary proceedings are by necessity winding-up proceedings, which stands in the way of a successful company restructuring. The proposal changes this, so that a company may in the future continue to operate as a "going concern" (the assumption being that the business will function without being liquidated over the next 12 months).

Since workers are the most important "stakeholders" in the firm, their outstanding wages should be secured by guarantee institutions and they should also have a favoured position in the order of financial claims in the case of insolvency. It is not acceptable that the workers are not having preferential rights. The ETUC considers that the management should be liable for unpaid workers' claims.

The possibility of collective proceedings must be established for the workers as creditors in insolvency proceedings. Liquidators should be required to initiate and facilitate where necessary e.g. in companies without trade union representation, a process whereby workers can act collectively in relation to their rights as creditors.

The current practice, which is not changed in the proposal, is that the jurisdiction for opening insolvency proceedings is established along the concept of the centre of a debtor's main interests. The current legal situation allows companies to locate or transfer their registered offices or transfer assets to countries where worker protection is weaker in order to take advantage of insolvency regimes which benefit shareholders. This "regime shopping" must be stopped so that companies cannot seek out the national insolvency regime which is the least advantageous to worker interests. For the ETUC the introduced changes are completely inadequate, as no change to the concept has been proposed. The ETUC asks for the introduction of a clear criterion being a

¹ COM(2012) 744 final Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1346/2000 on insolvency proceedings

definition of the “real seat” of a company’s operations. The opening of the main insolvency proceedings should be linked to this “real seat”.

The Regulation defines what a “group of companies” is and provides for rules in the case where the group is affected by insolvency. For the ETUC it is essential that the insolvency in one member of the group of companies does not endanger the viability of and employment in other parts of the group. In the interests of workers, the transparency of companies operating cross-border, particularly groups of companies, must be improved and not only in the case of insolvencies.

The ETUC wants to avoid the situation in which courts of a Member State that do not have jurisdiction over the contract of employment suddenly gain jurisdiction in employment law matters due to the opening of insolvency proceedings. The legislation to be applied and the jurisdiction must be those of the employment contract.

Worker protection in national labour laws and/or national insolvency laws must not be weakened by the revision.

A number of reforms to European company law and corporate governance are needed in order to put insolvency proceedings in a broader context with the aim of avoiding them as far as possible. The ETUC asks for worker involvement rights (information, consultation and participation) to be inserted into the proposal and be strengthened in general, so that workers can receive more information about the company, and take action in the interests of the long-term sustainability of companies and against the risk of insolvency.

The transparency of companies on both financial and nonfinancial issues needs to be substantially increased. Companies should be obliged to provide information on a wide variety of aspects, such as training, employee turnover, accidents/sickness, etc., which are crucial to the long term viability of companies. In general, the trend of increasing competition between national regulatory regimes and the tendency to see company law as an instrument of increased competition at the expense of workers' protection need to be stopped.

ETUC position on Europe 2020 Strategy – an Assessment

Adopted at the Executive Committee meeting of 5-6 March 2013

Commission President Barroso presented the Europe 2020 strategy in the following words underlining its ambitions: “Europe 2020 is the EU’s growth strategy for the coming decade. In a changing world, we want the EU to become a smart, sustainable and inclusive economy. These three mutually reinforcing priorities should help the EU and the Member States deliver high levels of employment, productivity and social cohesion. Concretely, the Union has set five ambitious objectives – on employment, innovation, education, social inclusion and climate/energy – to be reached by 2020. Each Member State has adopted its own national targets in each of these areas. Concrete actions at EU and national levels underpin the strategy.”¹

In an initial commentary to the new strategy proposal the ETUC was rather doubtful: “The immediate priority for us all is not 2020 but the implementation at the European level of a bigger recovery plan for jobs, new schemes to get the unemployed, especially the young, into decent work and learning. In fact, much of the next decade will be dominated by the consequences of the current economic crisis. Unemployment is likely to remain higher than pre-crisis levels up to at least 2015/2016; and taxation will be higher and public spending lower as debts have to be repaid.”² This critical reaction is also due to the fact that there is not a clear enough definition or understanding of how the goals can be reached.

Nevertheless, the trade unions supported the Europe 2020 objectives themselves, as most of them are – if they are taken seriously and are pursued in the right way – traditional trade union objectives: full employment, quality jobs, the reduction of social inequalities and of poverty etc. However, Europe 2020 appears to be a highly complicated strategy. The complexity can be seen from the fact that it covers five targets, eight indicators and seven flagship initiatives (see annex giving an overview). This therefore raises the question about its overall coherence and efficiency of its tools. Some ETUC affiliates even argue that the multitude of processes is undermining the role of the social partners.

Moreover, a year after the Europe 2020 strategy was adopted, it was put on an austerity regime and locked into the new economic governance architecture which prescribed hard indicators for fiscal consolidation. Sidelined Europe 2020 objectives were thus transformed into second tier goals which might be fulfilled in the new framework of austerity but which were no longer considered obligatory as fiscal ones. The question must be raised about the deadlock of Europe 2020 within the economic governance framework.

I The responses to the ETUC questionnaire demonstrate the insufficient involvement of the social partners

The involvement of social partners in the Europe 2020 Strategy was identified as key to its successful implementation. It is for this reason that the ETUC launched its own questionnaire in order to evaluate the participation of the trade unions in the process. The answers received showed that participation levels were very uneven.

¹ http://ec.europa.eu/europe2020/index_en.htm

² <http://www.etuc.org/a/6875> “EU2020”. An initial ETUC Commentary; 15.1.2010

A first group of affiliates responding to the ETUC questionnaire felt that they were consulted as much as in any ordinary consultation procedure. This small minority of affiliates was quite satisfied with the level of involvement. A second broader group of affiliates were invited by their government to discuss the Europe 2020 Strategy implementation via specific or existing permanent tripartite format bodies. This second group agreed that the policy documents of their respective governments basically remained unchanged for different reasons (blockage in tripartite institutions, format of a hearing with many participants etc.). Most of these affiliates stress that their involvement must be strengthened in the sense that their proposals must be taken into account. However, an important third group of affiliates has not been invited at all by their government to discuss or only for information purposes. To this list of affiliates who are not invited by their governments have to be added the Member States under the Troika regime which are not part of the European Semester/Europe 2020 process.

The National Reform Programmes and the Country Specific Recommendations were adopted without the proper involvement of the social partners. An overwhelming majority of affiliates was not involved in the process or the topic was dealt with as collateral or incidental to the general discussion on the implementation of Europe 2020. The European Parliament shares the ETUC's critical analysis.³

The specific discussion on the National Job Plans proposed by the Commission was not organized in the case of the majority of Member States.⁴ Some affiliates have written to their governments to stress the need for such National Job Plans. Correspondingly, most of the affiliates were not involved in the adoption of the Country Specific Recommendations. Very few insist on direct links to the government to influence decision-making. Affiliates from two countries only (Sweden, Italy) were able to influence the CSR in 2012 and only those from 1 Member State (Sweden) were able to do so within the proper consultation process.

It is clear that, up until now, a majority of the 85 ETUC member organizations has not really been involved in the process which poses the question of its democratic legitimacy. The involvement of social partners at national and European level is not timely enough and often just a formality. The method of organizing big hearings does not allow the taking into account of specific social partners' input, neither on the implementation nor the National reform plans nor the other facets of the Europe 2020 strategy. Another discussion process is needed to enable proposals and initiatives from the social partners to be taken up – there is room for improvement. It is necessary to bridge the gap between ambitious rhetoric or the good intentions and the reality of not taking opinions sufficiently into consideration. The overall conclusion must be that the involvement of the social partners needs to be organized in a serious way.

II. Europe 2020: caught between high expectations and disappointing outcomes – its framework and instruments seem to be inappropriate and are failing to deliver

When Europe 2020 was presented, the expectations were high but a first assessment shows that the actors involved have been unable to keep their promises. The majority

³ *The European Parliament called upon the Commission to include the Europe 2020 Strategy in the European Semester and to ensure that it is better reflected in the Country Specific Recommendations such as policies aimed at tackling youth unemployment and combating poverty. The EP is concerned that, in many Member States, national parliaments, social partners and civil society were not involved in the European Semester process and therefore urges the Commission to ensure that more democratic legitimacy be given to the process through the involvement of national parliaments, social partners and civil society. See EP resolution "on the European Semester for economic policy coordination: implementation of 2012 priorities" on 26 October 2012.*

⁴ *One affiliate received the offer to submit comments before the NRP was written, but was not invited to discussions.*

of affiliates agree that the Europe 2020 strategy is not efficient, as the objectives are not really treated as binding, or as obligatory in the same way as other criteria (e.g. austerity, deficit criteria etc.). The instruments, in particular the flagship initiatives, are being considered as not very or only partly effective in achieving the objectives, some even consider the strategy as purely symbolic policymaking.

Looking more systematically at the different aspects of Europe 2020, neither the New Skills and Jobs, nor the initiative on Youth (despite both being promising and welcome proposals), nor the one on industrial policy have delivered the results which are necessary for achieving the objectives up until now. Even the Commission in its Progress Report admits that the commitments set out by the Member States are insufficient to meet the targets and that the results have not been the ones expected. Despite the Commission's finding that the commitments set out by the Member States in their National Reform Programmes (NRPs) are insufficient to meet most of the Europe 2020 targets, none was urged in the Country Specific Recommendations to be more ambitious with their national targets.

The ETUC's sceptical initial assessment of the inadequacy of the Europe 2020 framework for delivering on its promises (particularly in relation to employment and poverty) has, unfortunately, been shown to be correct. There is no clear majority of opinions however on what could and should be improved, except for the wrong economic policy. Most affiliates see the introduction of more binding instruments as a two-edged sword as these instruments could be used against a more social policy and in favour of even stricter economic governance. But on the other hand it is rather useful to have this strategy, as some affiliates argue, because it can be used to put forward an argument in favour of a more social policy. Therefore the ETUC will examine the effectiveness of the Europe 2020 instruments in greater depth and asks the European institutions to do the same.

III. The European governance framework makes the Europe 2020 objectives difficult or impossible to achieve – a policy change is necessary

Many affiliates see goodwill on the part of their governments towards implementing Europe 2020, but other affiliates see less goodwill or think that their government prioritizes deficit reduction above all other objectives. In general, the European policy framework of austerity and fiscal consolidation is seen as an impediment to progress in achieving the Europe 2020 objectives. The austerity policy and economic governance procedures have increased unemployment, poverty, and economic and social divergence instead of convergence. Due to the supremacy of economic objectives and neoliberalism in general, to the encouragement of flexicurity, the majority of affiliates don't believe that the Europe 2020 strategy will, in the end, deliver its objectives.

The tensions between the goal of fiscal consolidation and austerity on the one hand and the Europe 2020 targets on the other are widening the gap between the promises and the reality. Some of the objectives (green economy, more resource efficiency, innovation, industrial policy, poverty reduction, skills, youth guarantee...) point in the right direction, but the transposition cannot work under the austerity regimes and the fiscal compact which substantially reduce the investments needed. The questions of how to find the necessary funding and how to get out of the crisis remain unanswered.

It is indeed necessary to invest in active labour market programmes in order to achieve the full employment goal (75%). Between 2008 and the end of 2012 the EU27 unemployment rate climbed from around 7 % to 10.7 %, equating to about 26 million unemployed people. Across the EU more than one in five young people is unemployed (22%), with youth unemployment exceeding 50 % in some Member States. What is clear is that the surplus countries increase spending, while the deficit countries cut

spending. In other words, there are cuts in active labour market policy in the countries where unemployment is the highest and the need the greatest.

Equally, to achieve the innovation goal (the 3 % goal was not achieved within the decade of the Lisbon strategy), or the climate change and energy goals, huge investment and an intelligent and sustainable industrial policy is needed.

In the same way, a great deal of investment is necessary to achieve the education and the anti-poverty goals. The current wage devaluation strategy advocated by the Troika in line with the austerity policy has proven to be the wrong tool. More than 115 million people are in danger of social exclusion in the EU27 because they are at an aggravated risk of poverty, are severely materially deprived or live in households with very low work intensity.

In fact, the new governance framework institutionalizes a structural bias towards the domination of economic over social governance; the Europe 2020 being subsumed into the European Semester. At best, the objectives are conceived as aiming at balancing or cushioning the social consequences of the austerity policy. The Europe 2020 objectives are taken into account in the Country Specific Recommendations, but they are not being respected in the same way that the deficit criteria are. It is necessary to put the former on the same footing as the latter in order to make them equally binding so that no Member State can treat them purely as suggestions. Current economic policies focus on the wrong instruments and supply-side measures, like fostering price-competitiveness and improving conditions for employers. This – in the eyes of many policy-makers – is supposed to foster growth and employment. From our point of view, promoting jobs and employment can currently be achieved by increasing demand. The supply-sided measures which are brought forward by the European Commission and others thus are counterproductive and rather lead to a decline in demand, economic growth and job creation.

The conclusion can be drawn that a radical policy change is necessary to stop the antisocial bias of European policy. If the social dimension is not put on the same footing as the economic objectives, the European project runs the risk of creating another unbalanced structure which will jeopardize the achievement of the social objectives.

Therefore, the ETUC demands that:

- the Europe 2020 objectives are incorporated into the framework of an alternative and more balanced economic governance structure. Employment, education, innovation, poverty reduction and climate protection targets must be as binding as those of fiscal consolidation;
- the Commission and the European Parliament conduct an investigation into the relevance of the existing framework, namely its instruments, for achieving the objectives;
- the national and European social partners are fully involved in the Europe 2020 process – and that trade union suggestions are taken into account.

The main elements of the Europe 2020 strategy

In this chapter we try to summarise the functioning of the Europe 2020 strategy and try to identify the direction of the 5 targets, translated into national targets and measured by 8 indicators, the 7 flagship initiatives and the European Semester to monitor progress of the Europe 2020 strategy. The Commission explains the strategy as follows:

1. "Five EU targets for 2020"
 - Employment: at least 75% of 20-64 year-olds employed
 - R&D/innovation: 3% of the EU's GDP invested in R&D/innovation
 - Climate change/energy: greenhouse gas emissions 20% lower than in 1990 (or 30% if conditions are right); 20% of energy from renewable sources; 20% increase in energy efficiency
 - Education: reduce school drop-out rates to below 10%; at least 40% of 30-34-year-olds completing third level [tertiary] education
 - Poverty/social exclusion: at least 20 million fewer people in or at risk of poverty and social exclusion".⁵

These targets resemble very much the objectives of the Lisbon strategy which were persistently supported by the ETUC, whereas the ETUC became increasingly doubtful of the means to implement the strategy. These targets are translated into national targets and measured by eight indicators.

2. The eight indicators are
 - "Employment rate by sex, age group 20-64
 - Gross domestic expenditure on R&D (GERD)
 - Greenhouse gas emissions, base year 1990
 - Share of renewables in gross final energy consumption
 - Energy intensity of the economy (proxy indicator for Energy savings, which is under development)
 - Early leavers from education and training by sex
 - Tertiary educational attainment by sex, age group 30-34
 - People at risk of poverty or social exclusion (union of three sub-indicators: People living in households with very low work intensity, People at-risk-of-poverty after social transfers, Severely materially deprived people)"
3. Seven flagship initiatives are meant to boost a smart, sustainable and inclusive growth:
 - "Digital agenda for Europe: creating sustainable economic and social benefits from a digital single market based on fast, secure internet and interoperable applications.
 - Innovation Union: turning ideas into jobs, green growth and social progress with action to support innovation and innovative businesses
 - Youth on the move: mobility programmes offering young Europeans the opportunity to study, train, work or start a business in another EU country
 - Resource efficient Europe: supporting the shift towards a resource-efficient, low-carbon economy that offers opportunities for sustainable growth
 - An industrial policy for the globalisation era: maintaining and supporting a strong, diversified and competitive industrial base in Europe, offering well-paid jobs in a less carbon intensive economy

⁵ The descriptive parts are taken from the Commission homepage (http://europa.eu/newsroom/highlights/europe2020/index_en.htm).

- An agenda for new skills and jobs: concrete actions to improve flexibility and security in the job market, ensure people have the right skills for today's jobs, improve the quality of jobs and the conditions for job creation
 - European platform against poverty: coordinating national actions by identifying best practices and promoting learning, establishing EU-wide rules and making funding available”
4. Monitoring progress functions through the European Semester, i.e. an annual cycle of economic and fiscal policy coordination, a new architecture for economic governance. The European semester means the EU and the euro zone will coordinate ex ante their budgetary and economic policies, in line with both the Stability and Growth Pact and the Europe 2020 strategy. The European semester starts with the publication of the Annual Growth Survey (AGS):
- End of the year – the Commission presents its annual growth survey (Annual growth survey 2012 – 23 November 2011; Annual Growth Survey 2011 – 12 January 2011)
 - March – the European Council takes stock of: the overall macroeconomic situation, progress towards the five EU-level targets, progress under the flagship initiatives and sets economic policy priorities (Spring Council Conclusions – 24-25 March 2011)
 - April – EU countries submit their medium-term budgetary and economic strategies (National reform programmes and stability programmes by country)
 - June – the European Council and Commission provide country-specific policy advice on economic and budgetary policies (Country-specific recommendations 2012 – 30 May 2012; Country-specific recommendations 2011 – 27 June 2011)

ETUC Position on the European Commission Communication on Rethinking Education: Investing in skills for better socio-economic outcomes

Adopted at the ETUC Executive Committee Meeting of 5-6 March 2013

Background

The Communication of the European Commission on Rethinking Education was published by the European Commission on 20 November 2012, accompanied by seven staff working documents: http://ec.europa.eu/education/news/rethinking_en.htm. The Communication will be integrated into Council conclusions, which will be adopted by the Education Council on 15th February 2013.

The objective of the Communication is to identify and recommend priorities in education in order to meet the current and future challenges concerning funding of education, high rates of youth unemployment and needs for better skills and competences on the labour market. The priorities are in line with the Country Specific Recommendations of the Annual Growth Survey 2012.

The Commission suggests several initiatives in accommodating challenges linked to education and employment:

- Enhanced focus on the development of transversal skills, in particular:
 - Entrepreneurial skills
 - Science, technology, engineering and mathematics (STEM) related skills
 - Language skills
- Improvement of the VET-systems with the promotion of work-based learning including quality traineeships and apprenticeships to reduce skills shortages.
- Stronger assessment of teaching and of skills obtained in and outside of schools.
- Scaling up the use of ICT in learning and teaching.
- More focus on recruiting and retraining teachers and trainers in initial and continuous VET by developing a competence framework or professional profile for teachers.
- Further investment in education and training at all levels of education.
- Investigation of the possibilities of cost-sharing with companies, via public-private partnerships and tuition fees.

The seven staff working documents are as follows:

- **An Education and Training Monitor 2012**, which is to be an annual Commission survey with a focus on EU Member States' shortcomings or achievements in pursuing the Europe 2020 objectives for education and training at the national levels.

- **Country Analysis**, which gives an overview on the main challenges to skills provision in the different EU Member States with a focus on measures taken at national levels to respond to the particular challenges.
- **Language Competences**: A new benchmark on foreign language learning is suggested: by 2020 at least 50% of 15 year old students should have knowledge of a first foreign language (up from 42% today) and at least 75% should study a second foreign language (61% today).
- **Partnerships and Flexible Pathways**: the Commission invites Member States to think out of the box when it comes to the funding of education and to include all kinds of stakeholders to be part of the policy approach on education.
- **Assessment of Key Competences**: This should be based on the 2006 European Reference Framework of Key Competences for Lifelong Learning with a focus on the development of transversal and basic skills at all levels, with a concentration on entrepreneurial and ICT skills.
- **Vocational Education and Training Skills**: Economic growth could be achieved through VET by focusing on skills-development for VET-students and VET teachers and trainers. Incentives are proposed to expand the “dual system” to EU-countries, as well as establishing European Sector Skills Councils and Sector Skills Alliances.
- **Supporting the Teaching Profession**: 10 key actions are proposed in the document to support the teaching profession concerning competences required from teachers; a re-designing of the recruitment systems; further support in their induction phase; improvement of possibilities for professional development.

This paper sets out the ETUC’s position on the Commission’s Communication, following consultations with the ETUC member organisations from December 2012 to February 2013.

ETUC Position

The ETUC considers the Communication of the European Commission on Rethinking Education essential to improving the lifelong learning and labour market situation in the European Union during the economic and financial crisis.

The ETUC welcomes the fact that in the Communication the European Commission seeks to contribute to achieving higher levels of employment during the economic and financial crisis by improving the quality as well as the access to education. The objectives put forward by the Commission in its Communication, such as combating high unemployment for young people, addressing the shortages of teachers and trainers and the need for higher skills levels in the future, are indeed still to be reached.

The ETUC particularly agrees with the objective of making European VET-systems world-class by expanding the supply of traineeships and apprenticeships and by promoting work-based learning, which will make the VET-system more attractive to young people – especially those young people who potentially might be early school leavers and/or unemployed.

The ETUC also welcomes the fact that addressing the shortages of teachers and trainers, achieving high quality and accessible early childhood education and better

VET-systems, and supporting teacher educators are among the objectives of the Communication.

The ETUC deplors the fact that there was no consultation with the social partners on the draft text of the Communication, which demonstrates that effective social dialogue on European and national education and training issues is still lacking. Furthermore, at the end of the policy document, the Commission does not specify that social partners, and the trade unions representing the teaching profession, should be the ones the Member States should consult on the priorities set up by the communication¹. The absence of social dialogue on education at the European and national levels is unacceptable from the ETUC's point of view, and we urge the Commission to improve the role of the social partners in its policymaking.

Creating partnerships in education would be an excellent approach to solving the difficulties of education and training, especially if it involved the social partners as allies. Social partners have a great interest in and a positive impact on education and training, as well as on education policy and can make a crucial contribution to improving them. Trade unions have wide-ranging activities in VET, recognition of skills and competences, skills mismatches, and organising and ensuring quality in work-based and workplace learning, through tripartite and bipartite social dialogue, sectoral skills councils, as well as collective bargaining, at all levels.

The ETUC reminds the European Commission that the role of education is much broader than simply fulfilling the economic targets of European and national strategies and this kind of "rethinking" or redefining of the purposes of education is unacceptable. The ETUC stresses that education should prepare individuals both for life and for the labour market and it should be independent from continuously changing economic and ideological objectives. The quality and quantity of education and training must be maintained during the economic and financial crisis, which should not affect education through budget cuts. We would like to stress that the European Commission should not alter the long-term objectives of education, and training and that work-based or work-placed learning are the ones which should provide the special skills to people, which the labour market requires for the short-term.

EU policy in the context of education should not only concentrate on employability, but also focus on enhancing the chances of vulnerable groups to receive quality education. This implies considering carefully the needs of migrants, socially disadvantaged groups and the unemployed, and addressing these groups' specific needs in educational reform. Lifelong learning should contribute to keeping people in employment. Furthermore, it is essential to invest and improve people's language competences in order to enhance employability through voluntary mobility paths as well.

The ETUC questions the deterministic link drawn by the Commission between education and job creation. Education and the development of skills and competences are necessary but not sufficient conditions for creating new jobs and new economic growth, because they would only serve the short term goals of the labour market. The ETUC believes that the European Union will not be able to create more jobs or overcome the economic and financial crisis only by redefining education or by making further demands on it.

The European Commission states that "skills determine Europe's capacity to increase productivity" and that "Europe will only resume growth through higher productivity and

¹ "At national level, Member States are now invited to pursue their reflections on this document through debates with their Parliaments and relevant stakeholders in order to press ahead with reforms." (*Communication on Rethinking Education*, p. 17.)

the supply of highly skilled workers, and it is the reform of education and training systems which is essential to achieving this". While the ETUC agrees that improving skills and competencies may contribute to boosting the labour market, it disagrees with the view that better economic productivity will be achieved solely by improving skills, as suggested by the European Commission. The ETUC considers that this policy is inaccurate, as improving skills and competencies alone will not solve the problem of unemployment, especially of women and older citizens, who, regardless of the level of their qualifications, are still the most disadvantaged in the labour market.

Instead of setting up new priorities and tools in the education field, the ETUC asks the European Commission to put more effort into achieving the EU 2020 strategies. 75% of 20-64 year-olds to be employed, reduction of school drop-out rates below 10% , at least 40% of 30-34-year-olds to complete third level education, and a reduction of at least 20 million people in or at risk of poverty and social exclusion, are the most important targets which have not yet been reached, and are even less likely to be so during the economic and financial crisis.

The ETUC also requires better coordination between EU educational bodies and the development of synergies between the numerous EU tools as well as making them comprehensible and practical instruments for use by citizens (EU Vacancy Monitor, EU Skills Panorama; Europass tools; EU quality assurance tools: EQF, EQAVET, and ECVET; etc). The work of the Advisory Committee for VET (ACVT) and the meeting of the Directorate-Generals for VET (DGVT) should be rationalised and ACVT should provide advice on policy planning to the European Commission. The discussions and results of the European Commission's social dialogue committees and working groups on education and training issues should be taken into consideration at EU-level events and policy making.

From our perspective a more active EU policy is needed in order to achieve the targets on cross-border student and workers mobility and the transferability of qualifications, which the EU has set itself on a number of occasions. For this reason it is crucial that current reform initiatives which seek to achieve greater mobility, such as the Erasmus for All programme, realise their maximum potential in strict connection with the broader European strategies for lifelong learning, and are made a political and financial priority for EU action.

While the European Commission has set up priorities in education in line with the Country Specific Recommendations of the Annual Growth Survey 2012, we fail to see any reference to the Employment Package, the European Commission Communication on Towards a job-rich recovery (April, 2012), which stresses the role of the social partners, particularly in the education and training sectors.

Maintaining and improving the quality of education and enhancing lifelong learning require sustainable public funding. Therefore, Member States should refrain from making public spending cuts, which affect the provision of high quality education and training. Thus, the ETUC supports the view of the European Commission on the need for further investment in education and training in order to achieve long-term beneficial effects through education on employment and on the labour market. The ETUC welcomes the fact that the Communication acknowledges that most Member States have made budget cuts in education and that the Commission encourages Member States to maintain investment in education despite the crisis. The parts of the European budget, notably the structural funds that are allocated for education and training support, should be increased and strengthened.

The ETUC rejects the Commission's view on cost-sharing as a way of funding education is not accepted by the ETUC. It is suggested in the Communication that

Member States should involve companies to a greater extent in the funding of education, especially in VET and higher education. While the ETUC supports the involvement of companies in providing trainee and apprenticeships for students and lifelong learning for workers, as well as work-based learning, it opposes any kind of privatisation of the initial VET-system. Public funding for education must be maintained and the European Commission should suggest to the Member States that they make better use of the European Structural Funds and strengthen the social partners' involvement in education and training.

The Communication continues to push for the increasing use of tuition fees for students in higher education. The ETUC opposes this policy, as higher education is not a tradable commodity. High quality, equity and improved access to higher education should be at the heart of European higher education policy rather than further privatisation and commodification, which would contribute to increasing social inequalities. Furthermore, we believe that high quality research should be maintained by means of high levels of public funding in order to serve the goals of education and training.

The ETUC considers that achieving economic growth through enhanced educational achievement depends on teachers. Therefore, the ETUC welcomes the Commission's initiative to make the teaching profession more attractive. However, the European Commission should clearly state and recommend to the Member States that the working conditions of teachers and trainers should be greatly improved. Governments' cuts to the education budgets and companies' cuts to the training budgets should stop so that the quality of teaching and training can be maintained and improved. One of the most essential means of maintaining quality of teaching is securing appropriate wages and quality initial and professional development training of the teachers. The ETUC is also of the view that Rethinking Education does not promote increased public funding for the improvement of recruitment, selection, induction and the professional development of teaching staff. Instead, the European Commission aims to achieve these goals via "coherent and adequately resourced systems". The systems should be sustainably and publicly financed.

The ETUC fails to see any concrete steps in the Commission's Communication towards establishing or taking into account partnerships with social partners, Partnerships with parents, students and other groups in society whose aim is protecting and developing education are also essential.

Finally, the Commission should limit the reference to OECD data in the Communication and not develop its education policy solely based on such data, as the OECD only represents 23 EU countries out of the 27 EU Member States. The countries that are missing from the OECD surveys are the ones that have the most problems with providing suitable conditions for teaching and quality education.

ETUC resolution on European Standardisation

Adopted at the Executive Committee on 5-6 March 2013

The new Standardisation Regulation - the first major legislative proposal of the Single Market Act - was adopted at the European Parliament on 11 September 2012.

The ETUC reiterates its opposition to highly political move to increasingly use standardisation in the internal market to replace legislation to by-pass difficult legislative processes.

Many of the areas being increasingly subjected to standardisation are political in nature and European policy should be channelled through democratic decision-making procedures rather than technical committees.

Furthermore, the ETUC insists on the autonomy of social partners and respect of collective bargaining and collective agreements, which are potentially challenged by the development of standards, particularly in the service sectors and in the field of human resources management. The ETUC reiterates that the ILO is the international organisation responsible for creating and interpreting labour standards.

However, the ETUC recognises the role of standardisation as key tool in industrial policy, in driving innovation and product policy. The ETUC reiterates its long held demand that such standards ensure a high level of public and occupational health and safety in Europe. Standards are part of pushing forward a quality agenda in Europe in terms of international competitiveness and ensuring the quality of the internal market. They should integrate requirements contributing to a sustainable development by greening products and production processes.

The new Regulation includes a key step forwards for workers representatives through 3 key elements:

- Trade unions are recognised as players in European standardisation activities (Recital 17), while workers' safety and working conditions are included in the major societal challenges that Standards can help address (Recital 19), by means of a reinforced support of organisation representing Trade Unions (social interests, Recital 22).
- Trade Unions (social stakeholders) will be granted an appropriate representation and effective participation in the European standardisation organisations (Article 5)
- A European stakeholder organisation representing Trade Unions (social interests) in European standardisation activities is eligible for Union financing (Article 16 + Annex III) for the functioning of this Organisation and its activities relating to European and International standardisation.

The ETUC welcomes these provisions, but reiterates the importance of worker participation in national level arenas. Provisions in the Regulation at the European level on resources and capacity building should be reflected at the national level too.

This resolution sets out the main points of the ETUC's proposed model to implement the Regulation's provisions on worker participation effectively.

ETUC resolution on the EU Health and Safety Strategy 2013-2020

Adopted at the Executive Committee on 5-6 March 2013

In the current crisis, working conditions are tending to deteriorate and this trend is being exacerbated by the spread of various forms of inequality and increasing precariousness. The ETUC reiterates the resolution adopted by its Executive Committee in December 2011 which set out the priorities for a new Community strategy on health and safety at work for the period 2013-2020. The European Parliament also backed such a strategy in December 2011. A majority of EU Member States share this position. And in December 2012, the Advisory Committee on Health and Safety at Work unanimously adopted a tripartite declaration pressing the European Commission to act without delay.

The attitude taken by the European Commission is not up to the challenges being faced, for it has issued mixed and muddled messages about the adoption of this strategy and its contents. Indeed, so far no strategy has been adopted and no clear calendar announced for its adoption during 2013.

The absence of a Community strategy would send out a very negative message to the Member States, implying that in a time of crisis workers' health is a superfluous luxury. It would also hamper the development of ambitious, cohesive national strategies, foster a downward spiral of competition and compromise other policies that cannot be effectively implemented unless working conditions improve, like those on gender equality, active ageing, sustainable development, industry or public health.

The ETUC reiterates that the protection of health and safety at work is a fundamental workers' right, as recognised by the ILO and the EU Lisbon Treaty, which must not take second place to short-term economic considerations. On the contrary, numerous studies stress that the investments made in prevention make a positive contribution both to the social security system and to dynamic industrial policies.

The ETUC demands that the European Commission take its responsibilities pursuant to Article 153 of the Treaty on the Functioning of the European Union, which provides for harmonisation in the progress made with respect to working conditions. The ETUC also demands that the new strategy be adopted without delay.

The contents of this strategy must take account of previous experience, and aim primarily to improve structures geared towards prevention measures. Sufficient numbers of independent occupational physicians and preventive services as well as labour inspectors are needed as necessary building blocks in prevention. Also a closer attention must be paid to work-related health problems, in particular incidences of cancer, other medical conditions to do with exposure to chemicals, musculoskeletal disorders and problems associated with psychosocial factors, notably linked to poor working conditions and work organisation, and work intensification.

The crisis urgently demands a comprehensive preventative approach in the field of mental health. The spectre of unemployment, concern for the future and brutal restructuring are key factors increasing anxiety and stress at work. In this regard, the ETUC reiterates its demand for a European legal framework on the anticipation of change and restructuring as overwhelmingly called for by the European Parliament in January 2013

Furthermore, the ETUC calls on the Commission to respect the European Treaties by ensuring that framework agreements concluded in the social dialogue, notably on health and safety, are implemented by directive at the request of the relevant social partners.

Finally, the ETUC calls on the European Commission to present the proposal for a directive on musculoskeletal disorders, which have been blocked for years, and revise the existing directive on the protection of workers against carcinogens.

ETUC position on the Transatlantic Trade and Investment Partnership

On 12 March 2013, the European Commission adopted a draft negotiating mandate for a Transatlantic Trade and Investment Partnership with the USA. This represents a significant step-change in transatlantic relations, which collectively account for half of global GDP in terms of value.

EU Member States have been given a remarkably tight timeframe to agree this mandate, which the Commission aims to conclude in time to allow negotiations to start before the summer recess this year.

Considering the enormous implications of the proposed negotiations for workers on both sides of the Atlantic, the European Trade Union Confederation is concerned at the lack of opportunity given for public scrutiny of the EU's draft negotiating mandate by MEPs, trade unions or civil society. This contrasts starkly with the level of scrutiny given to the US negotiating mandate within the US Congress. It is a major challenge to democracy in Europe, and will not help engender public support for these negotiations or any resulting agreement.

Therefore, from the outset, the ETUC demands that the Commission submit the draft of the EU negotiating mandate to the European Parliament and the trade union movement and civil society for information and discussion to allow greater public scrutiny before the adoption by the Council and the launch of negotiations. The ETUC calls for the Council Trade Policy Committee to hold hearings with trade union and civil society representatives in advance of agreeing the negotiating mandate. This is a break from normal practice but essential to garner public acceptance of these negotiations.

The economic scale of such a transatlantic agreement, means there will undoubtedly be significant consequences (potentially positive and/or negative) not only for jobs and their quality in Europe, but also for the global regulatory framework and attempts to maintain multilateral approaches to trade and investment. The ETUC believes that a sustainability and employment impact assessment is crucial in advance of the adoption of the EU negotiating mandate, to inform the Council's decision. All stakeholders should be consulted in the preparation of the SIA.

The ETUC recognises that such an agreement could bring positive energy to the stalled multilateral negotiations, and if the agreement is based on the best practices on each side of the Atlantic it could have positive impacts on jobs and investment flows so long as demands set out below (inclusion of binding core labour standards, exclusions of public services and investment protection etc.) are met.

Therefore, for instance, the EU should promote Europe's regulation on chemicals (REACH) as a best practice in driving innovation and ensuring environmental protection and human health and safety, as well as elements of the European model of industrial relations such as transnational worker information and consultation (e.g. European works councils). Equally, Europe has much to learn from the US Federal instruments of industrial policy and innovation (e.g. DARPA and ARPA-E programme), and greater cooperation in the development of new technologies could drive mutual investment and jobs.

We therefore demand a commitment from both sides to achieve a 'gold standard' agreement, which ensures the improvement of living and working conditions on both sides of the Atlantic and safeguards from any attempt to use the agreement to lower standards or impinge on public authorities' right to regulate. In particular the agreement must not hinder national legislators in passing laws or otherwise deal with the fields of

employment policy, social security, environmental protection, occupational health and safety protection, consumer protection, protection of minority rights and the protection of small and medium sized enterprises on the local and regional level. Governments must not be prevented from taking any measures to protect the interests of workers and citizens.

This position sets the ETUC's primary concerns as regards the EU's negotiating mandate:

- a) **Labour rights** must be enshrined in the body of the agreement, applicable to all levels of government in each party, and be subject to equivalent dispute settlement mechanisms as other issues covered by it, including enforcement. The ETUC has specific concerns about the lack of ratification of ILO conventions and the violations of fundamental labour rights in the US, notably on the right to organise and negotiate collectively, and particularly but not exclusively in Right to Work states. The EU should address this concern explicitly in its draft mandate. Dispute resolution must be based upon an independent and transparent complaints process, allowing trade unions and other Civil Society representatives to place complaints. The parties should commit to the ratification and the full and effective implementation of the core labour standards of the ILO, as an essential element of the agreement that shall not be undermined by either Party in the pursuit of trade advantage. The exchange of information between governments and social partners must be enabled as well as reactions of governments to complaints of social partners ensured. Independent experts should assess complaints. Considering that both parties are advanced nations and that there has been a long history of dialogue between DG Employment and the US Department of Labour, the EU should include in particular, but not exclusively, the implementation of ILO Convention 155 (Occupational Safety and Health Convention), the so-called "ILO Priority Conventions", i.e. Convention 122 (Employment Policy Convention), Conventions 81 and 129 (Labour Inspection Convention) and Convention 144 (Tripartite Consultation Convention) resp. the Conventions of the Decent Work Agenda, within the provisions on labour rights. As OECD member states, the Multinational Guidelines should also be referenced within this chapter. In no event should the agreement enable the weakening of labour rights in either party or undermine the standing of the ILO.
- b) Moreover, **environmental protection** and the respect of international environmental conventions should also be addressed, notably the EU must address the impact of US exploitation of unconventional fuels (e.g. tar sands and shale gas) on efforts to tackle climate change and sustainable development globally.
- c) **Parliaments and social partners** should not only be integrated deeply in the negotiating and planning process, but also in the monitoring process after the Agreement is in place. This monitoring process should focus on potential social and ecological impacts and the enforcement of rules laid down in the sustainable development chapter, but also on other parts of the agreement. The monitoring could be executed by a bilateral parliamentary commission (consisting of Members of the US and the European Parliament), in cooperation with the social partners. Furthermore, a monitoring mechanism involving trade union representatives should also be included in line with the joint ETUC/ITUC Statement of July 2007¹. The

¹ ETUC/ITUC, "Statement of Trade Union Demands Relating to Key Social Elements of "Sustainable Development" Chapters in European Union Negotiations on Free Trade Agreements (FTAs). Brussels, July 2007. http://www.ituc-csi.org/IMG/pdf/TLE_EN.pdf The recent EU-Korea FTA also contains a civil society monitoring mechanism that provides a possible model to be built upon.

continuous breach of minimum labour or environmental standards must be challenged by imposing withdrawal of trade privileges or monetary fines.

- d) Labour rights must not be corroded by any **investor protection provisions**. Protection should not be at the expense of the host states' right to regulate, or civil society or domestic firms. States need domestic policy space to meet important public policy objectives, including labour rights, environmental protection, the provision of public goods (health, education and social security) as well as the development of coherent industrial policies². The ETUC insists that the EU must clearly specify that the agreement will not interfere with the right of governments to regulate in the public interest, protect public services, or create new public programmes.
- e) It is imperative that the failings of the NAFTA are not replicated, let alone aggravated, by any future TTIP. This applies in particular to investor rights. We oppose the inclusion of an **investor-state dispute settlement** provision in the agreement. Considering that both parties are advanced economies with well-developed legal systems, the ETUC sees no reason to create a by-pass to national courts for foreign investors, and therefore insists that a state to state dispute settlement mechanism and the use of local judicial remedies are the most appropriate tools to address investment disputes. The Executive Office of the US-President already made clear in its notification of US Congress that EU investors in the US should not have greater rights with respect to investment protection than US investors in the USA. The European side should also make clear that there should be no rights for external investors to bypass European courts through an investor-to-state dispute settlement body.
- f) The EU mandate must maintain the current practice for **service** negotiations: liberalisation obligations must only be stated clearly within the scope of the so-called positive list approach (as used in the GATS). We fiercely reject the use of a negative list approach ("list it or lose it") and the incorporation of so-called stand still and ratchet clauses (which automatically lock-in future liberalisation measures and therefore contain an "autonomous built-in dynamic" towards liberalisation) in the agreement. We are concerned that universal access, equal treatment, public administration, affordability and sustainability of public services cannot be maintained through further liberalisation. Trade agreements must leave enough policy space to react on negative liberalisation results and to meet democratic demands for (re)regulation. Therefore negotiators should also develop a simplified modification procedure for liberalisation commitments and must ensure sufficient regulatory flexibility.
- g) We demand an **exclusion of public services** from the negotiations. In any case the scope and the standard of existing horizontal protective provisions ("public utility" clause, horizontal subsidy reservation) must be safeguarded and subnational levels of government must be excluded from all liberalisation provisions. The negotiators must meet the demands to carve out public services from the scope of the agreement. These include, but are not limited to, services such as education, health and social services, water supply, postal services and public transport. Sectors such as gaming and telecommunications should be approached with caution as there are important implications from a public interest point of view.
- h) Audio-visual and cultural goods and services should be expressly and comprehensively excluded from the EU mandate. This approach, which

² For further details on the ETUC's position on investment chapters please see ETUC resolution on EU investment policy adopted in March 2013 <http://www.etuc.org/a/11025>

should encompass both linear and non-linear services, would be consistent with the rights and obligations arising from the 2005 UNESCO Convention on the protection and promotion of cultural diversity, which the EU ratified, and also with art. 167 of the TUE. Audio-visual and other cultural services in Europe heavily rely on public funding, broadcast quotas, the promotion of European content distribution in the online environment and coproduction agreements, among other things, all of which could be jeopardised by the TTIP. The exclusion of audio-visual and cultural services would also be consistent with other FTAs currently negotiated or already concluded by the EU.

- i) Governments must retain the authority to favour public delivery of services, such as water treatment and distribution, without fear that such a policy would be considered a barrier to trade in services. The agreement should not oblige the opening or liberalisation of **public procurement** at the subnational level, including at the municipal level. Local governments should be able to use social and environmental criteria to ensure the use of public money in support of sustainable, local, economic development. Against this background the reform of existing policy frameworks should in particular take into account ILO Convention 94 regarding public procurement and collective agreements.
- j) Furthermore, in view of the current financial crisis, we are opposed to any further liberalisation in the area of **financial services** and stand still-clauses in the agreement that may obstruct the (re-)regulation of the crisis prone financial sector. In this regard, we want to point out once again the recommendations of the UN-Commission of Experts on Reforms of the International Monetary and Financial System: “[A]ll trade agreements need to be reviewed to ensure that they are consistent with the need for an inclusive and comprehensive international regulatory framework which is conducive to crisis prevention and management, counter-cyclical and prudential safeguards, development, and inclusive finance. Commitments and existing multilateral agreements (such as GATS) as well as regional trade agreements, which seek greater liberalization of financial flows and services, need to be critically reviewed in terms of their balance of payments effects, their impacts on macroeconomic stability, and the scope they provide for financial regulation”³. The negotiations should be used to coordinate action on tax avoidance, the abolition of tax havens and the creation of a transatlantic/global Financial Transaction Tax.
- k) Any further liberalisation of **Mode 4** of service supply remains a sensitive issue. The trade union Movement is aware of instances in which national labour law and collective agreement provisions are violated. In the context of an international legal vacuum to pursue violations, any further provisions must be subject to the condition that an effective international cooperation of the legal authorities is ensured. In case of non-compliance it should be possible to use the general dispute settlement mechanism and to impose sanctions in the form of substantial fines. The place of work principle must be applied from the beginning to all posted workers. Market access to Mode 4 service delivery must be complemented with an explicit mention that national labour, social, and collective agreement provisions will be upheld in the temporary posting and placement of workers for service provision. The TTIP should ensure that cross-border application and implementation of administrative and criminal penalties in cases of labour law violation and social fraud are upheld.

³ http://www.un.org/ga/president/63/commission/financial_commission.shtml

- l) The TTIP should include effective measures against the illegal trade of intellectual property-reliant goods and services across borders. However, private individuals/consumers should be clearly exempted from the civil and criminal law measures contained in the agreement when using those goods or services on a not for profit basis.
- m) **Agriculture** should not be part of the negotiations. A liberalisation of trade in agricultural products would not have any positive effect on agricultural workers in Europe and any commitments within a EU-US TTIP could make it even more complicated to find compromises in European agricultural policy.

The ETUC has consistently defended these principles in relation to European bilateral trade and investment negotiations. The manner in which the TTIP negotiations develop is of central concern to the trade union movement. The ETUC cautiously welcomes closer trade relations with the USA along the lines described above. We insist that these must be effectively regulated, guaranteeing that standards cannot be lowered via any future agreement. Such closer relations can bring deeper cooperation between the EU and US on flanking areas to trade such as research and development and the promotion of high health and safety standards - on nanotechnologies for example.

There are important transatlantic economic challenges that cannot be tackled by a traditional FTA while solving those problems would potentially have a bigger positive impact on growth and wellbeing than a standard FTA: a) tackling global imbalances in the current accounts by proposing a new approach to macroeconomic coordination could foster economic stability, b) stabilising volatile exchange rates could tackle the problem of uncertainty and could lower trade-costs much more, than a reduction of tariffs and NTBs, c) a closer cooperation and a common effort in the fight against tax evasion and tax-dumping could stabilise public revenues on both sides of the Atlantic.

2012



ETUC resolution on the efficient use of natural resources

Adopted by the ETUC Executive Committee at their meeting on 5-6 December 2012

1. The increasing scarcity of the resources that are currently being exploited poses a major challenge to the EU, which must, without further delay, launch a targeted and socially fair policy to improve the efficiency of their use.
2. As regards the environment, the planet's limitations are becoming more and more apparent by the day, both in terms of ecosystems having to cope with pollution and from the perspective of the depletion of conventional raw materials. From a social point of view, the current level of resource consumption is leading to a sharp increase in the price of commodities, with socially pernicious consequences. Economically, the dependence on these resources and the inefficiency of their use are hampering companies' competitiveness and hitting employment, in particular in sectors that make substantial use of commodities. More generally, the growing signs of the gradual depletion of the natural resources, that are currently being used, calls for us to bring about a paradigm shift based on durability, reuse and recycling, and a radical reorientation of the European model as demanded by the Social Compact for Europe proposed by the ETUC.
3. Aware of the need for this change in direction, the ETUC wants the Roadmap to a Resource Efficient Europe to help develop the EU economy. With this approach, the ETUC intends to be a stakeholder in the processes that will subsequently be launched. The ETUC highlights the need to quickly formulate scientifically robust indicators that take into consideration the social effects of the envisaged measures. It also stresses the importance of a regulatory framework based on quantified and verifiable targets. It reiterates the need for a European roadmap regarding a just transition and a transition to a sustainable economy that is compatible with the protection of our climate.
4. The ETUC regards the transition to an economy that is efficient in its use of natural resources as one of the essential cornerstones of a targeted policy to exit the crisis. According to a study commissioned by the European Commission, every 1% reduction in resource use could be worth €23 billion and could generate 100,000 to 200,000 new jobs¹. Increasing resource efficiency is a crucial plank of a policy to support the competitiveness of European companies by creating jobs and the political authorities must make it a top priority.
5. However, the process of transition of the economic model will only be fully legitimate if it is based on a strong social dimension involving the following aspects:
 - a. Active education, training and skill development strategies – mainly launched at the initiative of the public authorities – that prepare current and future workers for this development.

¹¹ http://ec.europa.eu/environment/enveco/studies_modelling/pdf/exec_sum_macroeconomic.pdf

- b. The creation of stable, quality jobs with decent working conditions. In this regard, special attention should be paid to occupational health and safety, and in particular to emerging sectors such as recycling.
 - c. A social dialogue that gets workers involved in the transition process. In this regard, the ETUC highlights the existence of many initiatives relating to the 'greening' of the workplace that have been proposed by worker representatives, and calls for an extension of the powers of European works councils to cover environmental issues. Mandatory company reporting on their environmental, social and corporate governance (ESG) performance is crucial to allow transparency and effective worker information and consultation procedures.
 - d. Solidarity mechanisms to offset the adverse impact of the transition for certain categories of workers and for socially vulnerable groups.
 - e. Social tariffs guaranteeing everyone access to energy and water.
6. Social fairness in this transition is also a factor in taxation policy. The ETUC has long argued for taxation to be used as a means of regulating the price signals needed to promote energy and resource efficiency, which should not be left to market mechanisms alone. That said, the ETUC strongly defends progressive taxation, ensuring the redistribution of wealth. The need to reform taxation to improve resource efficiency should not undermine universal and affordable access to basic goods and services such as water and energy.
7. The ETUC calls on the EU to address the impact of the liberalisation of the gas and energy markets in Europe on vulnerable social groups and their welfare, and to implement measures that curb rising energy poverty. The ETUC reiterates its demand for a strong EU energy policy, including the following characteristics:
- underpinned by public regulation and control,
 - promoting the modernisation of Europe's energy grid and infrastructure,
 - developing connections between member states,
 - negotiating collectively with external energy suppliers, and
 - guaranteeing social partner involvement.
8. In accordance with the International Trade Union Confederation resolution adopted in Rio on 13 June 2012, the ETUC calls for natural and energy resources to be regarded as common goods whose preservation and democratic management must be ensured by the public authorities. The ETUC also reiterates that access to resources, energy and water are fundamental rights that the European Union and its Member States must safeguard and guarantee. The ETUC opposes policies pushing for further privatisation and commodification of natural resources, especially water.
9. Public authorities have a key role to play, in particular by setting an example through the systematic use of Green Public Procurement, based on selection criteria reflecting a high level of environmental protection. The ETUC reiterates that the current proposed reform of public procurement envisaged by the European Commission must ensure that social and environmental considerations in public procurement procedures are taken into account. While it is only optional for the public authorities to take account of social and

environmental considerations, the reform should promote sustainable development. Although the ETUC welcomes the fact that the lifecycle is set to become a criterion for the allocation of public contracts, it regrets the fact that the Commission only envisages this for the environment and has not yet defined a common methodology for setting it up. The ETUC advocates the rapid definition of a European methodology and the inclusion of social and employment dimensions in calculating the cost of a lifecycle.

10. Public authorities should also strongly drive both private and public research and development activities, in particular with a view to supporting technological innovation. The ETUC recalls the Europe 2020 objective of at least 3% GDP to be allocated to R&D activities. The consolidation of public funding of research and innovation activities constitutes one of the main aids to this transition, but only on condition that research agendas are targeted towards the common good. Support for research in the private sector should avoid unfair profits and be conditional upon commitments regarding job creation in Europe.
11. The current economic model, which is characterised by the existence of private oligopolies and speculative practices regarding commodities, appears socially unfair and politically illegitimate. The ETUC calls on public authorities to combat these practices and to support alternative economic models to individual ownership, for example leasing and forms of collective ownership of goods.
12. The regulatory framework is crucial for stimulating a shift in resource efficiency. Greater coherence is necessary between European policy initiatives and particularly in European legislation on product policy. The ETUC supports the development of a framework directive bringing together the various sectoral and product rules and standards. The responsibility of producers and distributors should be developed, in particular by expanding the scope of the Ecodesign Directive to cover issues of efficiency in natural resource use. Extending the length of product guarantees and imposing obligations in terms of product disassembly and recyclability are measures that should be introduced into the text of the directive. These legislative developments should be based on an analysis of the life cycle of consumer goods to take into account all resources used, from the extraction of raw materials, through to the destruction or recycling of the product. This is a crucial pillar of a proactive European industrial policy agenda, for which the ETUC has repeatedly called, and is urgently needed to ensure that industrial sectors are restructured to minimise their impact on the environment and made accountable for their resource use.
13. Health and environmental problems of the past linked to extractive activities are yet to be resolved in much of Europe, in particular by ensuring adequate compensation is available to the workers affected. The ETUC calls for:
 - action to ensure a total ban on asbestos in Europe, and support and training for workers involved in asbestos removal and disposal (notably in the construction sector);
 - the creation of a European health surveillance system for workers exposed to harmful substances in the workplace;

- better EU research coordination on industrial and occupational diseases; and,
 - all new/future planning permission applications to be subject to effective environmental and public health assessments and based on the precautionary principle.
14. The ETUC will play an active role in the European Resource Efficiency Platform and other forums to ensure that these concerns are integrated into European resource efficiency policy.
 15. Together with its affiliates, the ETUC will further develop its work on worker-led resource efficiency, notably through future Green Workplaces projects at company, sectoral, regional and national levels, and the broad dissemination of its Green Guide for union activists.



ETUC position on free movement of labour for Croatia

Position of the ETUC adopted by the ETUC Executive Committee at their meeting on 5-6 December 2012

On 1st July 2013 Croatia will join the European Union.

The ETUC Executive Committee calls on the EU Member States to refrain from applying any kind of temporary measures to block or limit the free movement of Croatian workers within the European Union.

The ETUC reaffirms that free movement and fair mobility are among the top priorities set within its political principles and that all four fundamental freedoms of the common market (i.e. movement of goods, services, capital and people) should be given equal importance.

The ETUC also considers that the relatively small size of the Croatian labour market should enable its integration without major difficulties and therefore sees no objective reason to postpone free movement of labour for citizens of Croatia.

Consequently, the ETUC Executive Committee calls on the European institutions and the Member States to ensure fair mobility, equal treatment, the prevention of social dumping, and the social integration of Croatian workers, and notably for cross-border workers who would be particularly penalized by temporary measures, which would keep them in a condition of irregular employment.

The ETUC Executive Committee also reaffirms its opposition to the application of the third phase of temporary measures against free movement of workers from Romania and Bulgaria.

In the Member States where temporary measures will be or have already been introduced, they must be replaced as soon as possible by policies aimed at the putting in place of the proper conditions for free movement, fair mobility and equal treatment in the labour market.



ETUC position on the Single Market Act II

Adopted at the Executive Committee of 5-6 December 2013

Introduction

Celebrating the 20th anniversary of the Single Market, the European Commission launched in October 2012 the Single Market Act (SMA) II¹ as a follow-up to the first SMA presented in April 2011. The SMA II focuses on a second set of 12 levers to drive growth and develop the Single Market in four areas: 1) developing fully integrated networks in the Single Market; 2) fostering mobility of citizens and businesses across borders; 3) supporting the digital economy across Europe; and 4) strengthening social entrepreneurship, cohesion and consumer confidence.

ETUC position

The ETUC regrets that the Commission's internal market strategy continues to be based on further liberalisation and privatisation and appears to ignore the importance of public services. The new SMA does not contain any proposals to strengthen the social dimension. The ETUC has always insisted that the European Single Market must serve the workers and citizens by guaranteeing workers' rights and social protection. The Single Market is not an end in itself, but a tool for achieving social progress.

The Single Market will never be complete if the social dimension is not taken seriously. The Single Market should reflect a social market economy aimed at full employment and social progress, and a high level of protection and improvement in the quality of the environment and the promotion of social justice and protection as set out in the Treaty.

A Social Progress Protocol

In the SMA I, the Commission made a commitment to clarify the exercise of freedom of establishment and the freedom to provide services alongside fundamental social rights, which resulted in the proposal for the Monti II Regulation. Although the ETUC welcomed the withdrawal of the proposal, the problems created by the judgments of the European Court of Justice (ECJ) remain. The Commission should therefore honour its commitment by making it absolutely clear that all free movement provisions of the Treaty must be interpreted in such a way that fundamental social rights are respected. The ETUC believes that the only solution is to attach a Social Progress Protocol to the Treaties ensuring that fundamental social rights take precedence over economic freedoms.

Developing fully integrated networks

The financing of public services has to be ensured as an investment in the future of European social market economies. Developing fully integrated networks for rail, maritime, air transport and energy, by pursuing vigorous enforcement of the competition rules alone will not guarantee the quality of services nor universal access to these services.

The ETUC has already made it clear that the development of an internal market for transport requires a strategy that takes into account not only economic and environmental challenges but social ones as well². The Commission should impose rules based on safety, quality, accessibility and respect for working conditions and the environment on all operators in the European transport market. For this, it is necessary to move away from the current ideological approach, according to which the liberalisation of the transport sector is a key principle, when

¹ COM(2012) 573 final

² ETUC resolution on the European Commission's Transport White Paper adopted on 19-20 October 2011

experience already shows that a free market approach does not necessarily lead to an effective running of public services (for instance the impact of liberalisation measures in the energy sector).

The ETUC therefore urges the Commission to adopt a radically new approach, taking into account the general interest dimension of the transport sector, and to look at labour standards, not as a barrier to further liberalisation, but as an essential component for the quality and the sustainability of the sector. Free markets alone do not generate sufficient incentives to ensure the fulfillment of public service obligations.

The ETUC is reiterating its call for a moratorium on liberalisation until a proper evaluation of previous liberalisations and privatisations has been conducted.

The ETUC demands an effective European energy policy promoting a smart grid for European electricity and gas production and transmission to ensure a sustainable energy mix with a higher share of renewables, guaranteeing security of supply and affordability for industry and household consumption. This demands a re-evaluation of the Commission's strategy on the liberalisation of energy markets with an increased role for European and national public authorities in energy markets, through a European Energy Agency. National planning and the initiation of new major and decentralised energy production projects are needed to ensure the long term supply of electricity, as well as investment in energy efficiency, improved energy technologies and the social anticipation and management of related industrial change.

The ETUC calls for measures to prevent negative social impacts of rising energy prices, the priority being to reduce energy needs by investing in energy efficiency for social housing and affordable low-energy alternatives for vulnerable consumers. The ETUC urges the Commission to assess the social consequences of the climate change package within the context of the opening up of the electricity and gas market, addressing in particular the impact on vulnerable consumers and electricity public service obligations. Especially, due to the possible increase of 15 to 20% in electricity prices by 2020 as a consequence of the climate change package. Universal access to essential energy services needs to be secured to all people living in Europe, notably through the provision of social tariffs and through public services. Therefore, enforcing the implementation of the requirement for universal and affordable access to services in existing EU sectoral directives is required, such as through additional provisions on access to a minimum supply of energy, to secure the energy provision of the poor and protect them from power disconnection through establishing a right to energy supply.

Fair mobility

A European labour market requires European 'rules of the game', combining open borders with adequate protection. These key conditions are equal wages and working conditions for work of the same value on the same territory; respect for national collective bargaining and indispensable industrial relations systems and dynamic tools to manage change in a democratic way; equal access to social benefits for all workers; proper instruments and tools for the monitoring, enforcement and application in practice for stakeholders at all relevant levels, including the social partners.

The EU needs a rigorous commitment from its Member States to base the free movement of workers provisions of the Treaty on the host country principle (equal treatment and non-discrimination of workers and companies in the place where the work is done).

The ETUC welcomes the aim to improve labour market mobility and to make EURES more effective. However, it must not be reduced to a simple recruitment, job matching and placement tool, whilst neglecting its role as an advisory and information tool for mobile workers and a forum for cross-border social dialogue, which is fundamental to removing obstacles to mobility and preventing social and wage dumping across borders.

The ETUC agrees that a European solution is needed for the issue of the portability of supplementary social security rights, which is a real obstacle to mobility. Such a solution, however, must respect the role of the social partners and collective bargaining agreements. It is crucial that the rights that have been acquired cannot be lost.

Access to finance

The Commission argues that the cross-border mobility of businesses is hampered by difficulties in funding new business projects and the administrative burden, in spite of the fact that the Commission has already taken action on the bulk of the legal acts that it considers burdensome. Furthermore, the administrative burden of regulation cannot be treated in isolation from the benefits to society.

With regard to facilitating access to long-term investment funds, the ETUC is of the opinion that this should be constructed in such a way that the key principle of neutrality towards the public or private nature of the ownership of investment projects is being strictly respected. In practice, this implies that these investment funds have to be open to 100% public initiative investment. The latter would also help in countering the ongoing and perverse trend of public investment cuts, driven by the strategy of austerity.

Although access to finance has become more difficult, the problem is not limited to long term investment only. One important characteristic of the crisis in Europe is that many companies have restricted access to credit and/or are ridden with high debt loads. This implies that companies try to replace credit with accumulated profit retention. By deregulating wage formation systems and promoting a downwards flexibility of wages, European and national policymakers are currently giving companies the possibility to rise their profit margins at the expense of the workers. This policy fosters neither competitiveness, nor investment. This is a policy that is not only creating new and even higher inequality; it is also a policy that threatens to undermine aggregate demand. The Commission should urgently address this problem.

Corporate governance and insolvency rules

The ETUC regrets the Commission's lack of vision for a sustainable corporate governance model in the Single Market. EU company law overemphasizes businesses' and shareholders' needs to the detriment of the interests of workers and other stakeholders. Furthermore, the current piecemeal approach and lack of global vision for EU governance lead to regime competition between the Member States and short-term business strategies throughout Europe. EU company law should focus on promoting a coherent, sustainable and forward-looking corporate model, including an EU framework instrument on workers' involvement.

The ETUC is in favour of a revision of the EU insolvency rules. The protection of workers against the threat of insolvency needs to be improved and the position of workers in the case of insolvency needs to be strengthened. Furthermore, "regime shopping" must be avoided so that companies cannot seek out the national insolvency regime which is the most disadvantageous to worker interests.

Financial coordination and tax justice

A Single Market requires effective regulation and supervision of the financial sector. The Commission should ensure that it contributes to sustainable economic growth and social development.

Measures should be taken at European level to close tax havens, prevent tax evasion and fraud and restore tax justice between capital and labour and rich and poor. There is a need for greater tax policy coordination in order to avoid tax and regime competition, which undermines welfare states, social protection, and the financial stability of public expenditure. The primary objective of the harmonization of corporate tax law and minimum rates of taxation for companies should be the stabilization or increase of public revenue.

The ETUC is also reiterating its call for a financial transaction tax to ensure that the financial sector contributes fairly towards economic recovery, since substantial costs and consequences of the financial crisis are being borne by the real economy and in particular, the workers and taxpayers.

Restructuring

The ETUC demands concrete action from the Commission to create a strong legal framework on the anticipation of change: 1) preparing and enabling workers is the key role of education and training; 2) maintaining and creating jobs is the key role of industrial policy and a sound public investment policy; 3) information, consultation and participation play a key role in giving workers a voice and place in strategic decisions-making; 4) within a European legal framework there should be a key role for collective bargaining; 5) providing a safety net is the key role for active labour market policies, social protection and support measures.³



Economic and monetary union Resolution on the banking union

Adopted at the Executive Committee on 5-6 December 2012

The ETUC welcomes the conclusions of the October 2012 European Council on a European Banking Union as an important building block towards enhanced structures of European economic governance and deeper integration of the euro area. The banking union must enable European economic policy to break the negative feedback loop between the debt of sovereign states and their banks' balance sheets, in which private debt and public austerity have been mutually re-enforcing each other since almost three years. Its main objective must be to regain the primacy of policy over financial markets by creating solutions that would help to reduce the unsustainably high interest rate spreads that have rattled the countries in the periphery of Europe. The EU must urgently re-establish a level playing field for all of its members, preserve the single market for financial services and provide greater stability in the European Monetary Union (EMU).

The ETUC believes that for a banking union to achieve its objectives, a number of important issues must be addressed by the European legislation process ahead. In particular, these concern the architecture of the role of the ECB in the planned Single Supervisory Mechanism, its relationship with the European Banking Authority (EBA), access to ESM rescue funds for troubled banks, deposit guarantee schemes, and a banking resolution framework and fund.

Moreover, the ETUC is convinced that a European banking union can become fully functional only if and when issues related to the structure of the banking system and to the moral hazard herein are tackled simultaneously. A single supervisor and a resolution authority must be accompanied by a structural reform of banks, which should limit the ability of commercial banks to engage in certain kinds of investment banking activities. In addition, the ETUC demands that investment banks' ability to leverage should be limited to their own funds, which in turn would limit the systemic risk for citizens. Moreover, banks must be prohibited from engaging in any kind of shadow banking activities. The ETUC recalls that the banking sector in Europe is heterogeneous and that many regional, cooperative and savings banks are serving the real economy at best by taking deposits, providing loans and ensuring the transfer of payments.

The ETUC therefore welcomes the thorough analysis made by the High-Level Expert Group on Reforming the Structure of the EU Banking Sector, chaired by Erkki Liikanen (HLEG or Liikanen Report), that robust structural reform of the banking sector would boost stability and growth in the EU. The report's diagnosis must now be translated into a comprehensive EU policy on banking reform that eliminates the flagrant distortions and delivers an efficient and stable banking system in the interest of the real economy, for enterprises and households alike.

The role of SSM and ECB

The ETUC welcomes the new role for the ECB which lies in the ultimate responsibility in SSM

for specific supervisory tasks related to the financial stability of all banks in the euro zone, though national supervisors will continue to play an important role in day-to-day supervision and in preparing and implementing ECB-SSM decisions. For the ETUC, the proposals rightly gear to the effective disappearance of the distinction between home and host operating in the euro zone, since the ECB will have direct oversight of all 6000 euro zone banks, to enforce prudential rules and perform effective oversight of cross border banking operations into the euro zone. The ETUC believes though that it is impossible to supervise all 6000 banks, including very small local savings banks, with one single institution. In practice, the SSM will heavily depend on the cooperation with national supervisory authorities.

The ETUC supports the provisions in the draft Council Regulation that accord the ECB the right to authorize a bank, to withdraw the banking license, to remove the management of banks, to request any information on banking operations, to undertake on-site inspections and to impose sanctions. Supervision will be based on the common rules for capital requirements as set out in the two pieces of legislation that implement the Basel III agreements at EU level, the Capital Requirements Directive (CRD IV) and the related Regulation (CRR), both of which are currently negotiated between the Council, the EP and the Commission.

Financial supervision is linked to the exercise of sovereign power. This is why the ETUC believes that supervisory powers need to be properly defined as well as to become subject to judicial review and appropriate accountability. Inadequate or wrong actions by the supervisor cause the liability on the part of the State. Establishing a single pan-European supervisor is linked to the transfer of sovereign powers to the EU level with potential liability for the Member States involved. In the case of the SSM, decision making is shifted to the EU however the accountability still rests locally as the national governments retain responsibility for resolution and deposit insurance, which the ETUC believes is not an optimal outcome.

The ETUC warns against conflicts of interest that can arise between the mandates and objectives of monetary policy and those of financial supervision, e.g. when one side has an interest in keeping the banking system afloat so as to avoid losses to the ECB balance sheet to incur, while the other side is about to resolve a bank after a red alert. Becoming the single supervisor would give the institution an enormous concentration of powers, since it would be in charge of three important and related areas: monetary policy, banking supervision and – via its key role in the European Systemic Risk Board (ESRB) – macro-prudential supervision. This could lead to a situation where the ECB is controlling the impact of its own actions which is unacceptable for the ETUC. Additionally the ETUC warns against the loss of reputation if the ECB fails as a supervisor it will influence the credibility of its monetary policy.

The ETUC demands therefore firewalls to be built in to ensure the separation of the ECB's supervision tasks from its monetary policy tasks. Members of the SSM Supervisory Board must include others than those of the Governing Council appointed by the Executive Board of ECB. The ETUC believes that banking supervision is an essential element of democratic control and that the EP must be given a role in the selection process to include experts of civil society.

The ETUC regards it as perfectly legitimate for the ECB as creditor of the banks to have a close look into the books of its borrowers; however the supervision itself must become more transparent. The ECB in its role as a single supervisor must become fully accountable to the European Parliament. A special Committee of the EP would need to be set up to execute a controlling function over the ECB-SSM.

ECB-SSM and EBA, EU-27/17

Two years ago, the EU adopted a number of Regulations on the European System of Financial Supervision (ESFS), establishing European Supervisory Authorities, including the European Banking Authority EBA, which came into force on 1 January 2011. The ETUC contributed to the legislation process in submitting amendments to the draft regulations to the European Parliament. At that time, the ETUC criticised the national prerogatives in the new system of financial market supervision and proved right. The future SSM appears better suited to fulfil an effective cross-border supervision of the banking system than the EBA, which suffers both from financial restrictions depending on staff and budget allocation by the Commission and from the willingness of national banking supervisors to cooperate.

The modification of the existing Regulation 1093/2010 on the establishment of the European Banking Authority stipulates that EBA will remain as a common banking regulator to develop a single rule book and a single supervisory handbook to preserve the integrity of the single market and ensure coherence in banking supervision for all 27 EU countries. The ETUC demands that EBA must ensure the consistency of its interpretation and implementation inside and outside the European Union.

The ECB is recognized as a “competent authority” (in addition to the national supervisory authorities) for the purpose of the supervisory function. However the ETUC warns against a situation that may arise when the EBA will be unable to impose binding decisions on the ECB, while it could force sovereign states to comply when it mediates in a dispute. The Commission argues that, in the rare event of the ECB failing to comply voluntarily, banks would be bound to comply with EBA decisions. Additionally, EBA decisions concerning regulatory matters (binding technical standards, guidelines and recommendations, decisions to reconsider restrictions on financial activities) and budgetary matters will continue to be taken by the EBA Board by qualified majority of its members. Voting on action in emergency situations will also remain unchanged (taken by simple majority). Notwithstanding these safeguards, the ECB-SSM will come to exercise a very powerful, possibly dominant, role in EBA policy-making.

The ETUC believes that close cooperation between SSM and EBA is insufficient to provide equal treatment between euro area countries and those outside. The ETUC believes that supervision of banks should follow the same rules and be of the same quality everywhere in the Single Market. The ETUC is convinced that the objectives of maintaining financial stability in an interconnected financial market and of preserving the single market for financial services require that the geographic scope for an EU supervisory mechanism be the entire EU-27. However the ETUC regrets the reluctance of several Member States to cede sovereign powers in the area of banking supervision, which means that the new regime will not encompass the EU-27, but most likely a sub-group of 17, and lead to a two speed Europe in an essential area of the Single Market.

To safeguard the interests of all EU-27 states, the ETUC believes that the voting powers within EBA must be adjusted to prevent EMU countries to overrule those outside. The EBA powers when dealing with matters affecting all EU member states will be strengthened and the voting regime changed, making it more difficult for individual member states to vote against decisions. The impact of the SSM on the operational functioning of ESFS will be examined in the forthcoming review on the functioning of all European Supervisory Authorities to be presented by the Commission at the beginning of 2016.

Recapitalization by and direct access to liquidity of ESM for troubled banks

The euro zone summit in June agreed to let the ESFS/ESM rescue funds be paid to Spanish banks directly instead of via the government, thereby sheltering the weakened sovereign from

taking over ever more bad loans and private debt held by the banks, and paved the way for ECB supervision. Against the interpretation of some, the Commission proposals of 12 September and the European Council conclusions of 18-19 October have made the adoption of SSM a prerequisite to enable a direct recapitalization of banks by the ESM. The ETUC is urging the European institutions not to delay the necessary decision making to establish the SSM and make it fully operational as soon as possible in 2013.

The ETUC firmly rejects the view of certain governments who have insisted that the ESM may only deal with troubled banks in the future and should abstain from 'legacy debt' of banks that have existed prior to the enactment of the ESM. Creating a level playing field requires that all banks that are still fundamentally solvent should have access to the ESM. Insolvent 'zombie' banks however should no longer be let alive artificially. Their resolution must be enacted swiftly, and financed by banks' own resolution funds and shareholder bail-ins. Their recapitalization through European funds should be excluded.

While the ESM can buy government bonds in the primary markets of those governments which have already sought its assistance and are, therefore, following the related harsh social conditionality, a direct intervention by the ESM to recapitalize banks could potentially avoid these hardships. However the ETUC demands that any recapitalization of private banks through public money must in turn lead to a transfer of proportional entitlements to ownership.

The ETUC believes that the introduction of SSM would directly address the core of the current crisis in two ways. By enabling the ESM to rescue troubled banks, governments of their home countries would no longer be coerced to take on ever more private banks' debt and thus be in a position to avoid the most brutal forms of budget austerity. As an indirect effect, this could ease the borrowing of governments on financial markets by pushing interest rates down and would be more effective than the ECB's current interventions in the secondary markets. Secondly, the SSM could withdraw banking licenses and start to resolve financial institutions that are in fact zombie banks because technically insolvent, but still alive.

The ETUC demands a strong SSM that works against the prevailing sentiment of uncertainty in the bond markets that has pushed up interest rates to unsustainable highs for some, while bringing down refinancing costs for others, adding to the already existing macro-economic imbalances. It is also hoped that a sweeping banking supervisory authority will help change the most harmful practices in the sector, such as strong incentives for traders and top management to take excessive risks and to exert pressure on bank employees to sell products to their customers who are hardly in their interest. The ETUC therefore welcomes the proposals from the Commission as a step in the right direction that could achieve good corporate governance, high quality customer services and enhance working conditions in the sector. Bank employees must be fully involved in this and consulted with prior to any steps that are being taken.

Completing banking union

While the above sets out the necessary requirements of a functioning banking union, the ETUC believes that they are far from being sufficient. For the 'imperative to break the vicious circle between banks and sovereigns' (Euro Zone Summit Conclusions of 28 June 2012), deposit guarantee schemes and banking resolution frameworks must be put in place without further delay. These would set up the common instruments that are required for a true crisis management in EMU to function.

It is imperative for the ETUC that the blockage by the Council of negotiations on the Directive on Deposit Guarantee Schemes [recast] be lifted and the legislative procedure completed so that the Directive can be applied by each member state. Uniform, common and stringent requirements for all national deposit guarantee schemes must ensure that bank-runs are avoided and customers re-ensured that their money is safe. The Council must ensure that the amount of insured deposits for each individual is raised from 50.000 to 100.000 euro, and higher amounts be guaranteed in particular cases such as insurance redemption, inheritance or real estate sales. In addition, all banks should be obliged to provide for a security fund of 1.5% of the total amount of their deposits. National systems which function as institutional guarantee systems should not be negatively affected by a European standardisation of deposit guarantee systems

The Directive on bank resolution and recovery adopted by the Commission on 6 June 2012 should be adopted as soon as possible to open up the creation of a single European recovery and resolution regime over the medium term which is essential within the banking union. Mechanisms of full protection of savings and tools of resolution and recovery that exist in certain banking sectors (e.g. in savings banks and mutual banks) should be recognized as constituting efficient safeguards against costly bank bail-outs by the taxpayers. Nevertheless, the ETUC demands the banking union to be underpinned by a fiscal backstop that is sufficient to restore confidence in the financial system.

For the banking union to become an important building block towards a resilient EU banking sector, many problems need to be resolved in the structure of the banking system. The most important would seem to make the construction of a banking union conditional on the resolution of the universal banking model of 'Too big to fail' banks. The recommendations of the High Level Group of Experts chaired by the President of the Finish Central Bank, Erkki Liikanen, must be followed-up by the Commission and be used for broad-based consultations with the social partners and civil society at large on the future of the European banking system.

The ETUC demands that these subsequently lead to EU legislation that addresses moral hazard at the European level and the implications on taxpayers' money and distortion of activity and competition by "Too big to fail" banks. Fighting the creation of asset bubbles and the fact that many banks in Europe are above optimal size and seem "beyond resolvability" is tantamount to the political acceptability of the Single Market for financial services and cross-border bank bail-outs. The ETUC calls on the Commission to present legislative proposals in due course and to resist pressure from the banking sector to water down the proposals of the Liikanen Group.



ETUC POSITION ON DIRECTIVE 2004/25/EC ON TAKEOVER BIDS

Adopted at the Executive Committee on 5-6 December 2012

Directive 2004/25/EC on takeover bids is currently under review. A takeover bid should be understood as a public offer to the holders of a company to acquire all or some of their securities with a view to acquire control of that company. The ETUC challenges the philosophy underlying the Directive, according to which takeovers enable needed restructuring and improve the efficiency of the European economy, and should thus be promoted.

The ETUC does not support the further liberalization of the current legal framework, in particular having regard to hostile takeovers. It is therefore essential that adequate defensive mechanisms remain in place. With regard to the board neutrality rule, it should be clarified that the board of the offeree company must act in the long term interest of the company and its stakeholders.

Furthermore, a complete rethinking of the provisions on workers' rights is urgently needed, with a view to bring the Directive in line with the rest of the Community acquis. In particular, the ETUC calls for:

- a clear reference to Directive 2001/23/EC on safeguarding of employees' rights in the context of transfer of undertakings;
- effective sanctions. In case of serious violations of employees' rights, legal effects of the takeover bid should be suspended until all the obligations have been adequately fulfilled;
- consultation rights with both the offeror and the offeree, with a view to reach an agreement before any decision can be finalized;
- the takeover Directive should grant employees' representatives a right to expertise. The cost should be borne by management and only employees' representatives should be able to select the most appropriate experts.

Annex 1: Background

A takeover bid should be understood as a public offer to the holders of a company to acquire all or some of their securities with a view to acquire control of that company. In June 2012, the Commission has published a report on the application of Directive 2004/25/EC on takeover bids, making recommendations for possible revision. This report is based on the findings of a study, to which the ETUC contributed in October 2011¹. Member States, the European Parliament, the European Economic and Social Committee and other interested parties are now invited to submit their views. Accordingly, the European Parliament is about to start discussions in an own initiative report.

In this context, the ETUC wants to positively contribute to the debate with concrete proposals for a revision. In spite of takeovers having a significant impact on working conditions throughout Europe, the Directive contains very weak provisions on workers' rights. A revision of the Directive is clearly required, with a view to change the current shareholder value model into a broader stakeholder approach. This means in particular that the provisions on workers' rights need considerable strengthening.

The impact of takeovers on stakeholders and the EU economy

Takeovers on the whole must be seen critically with respect to their impact on stakeholders and the economy. The main benefactors of takeovers appear to be the shareholders in the company being taken over (the so-called "offeree company") and the top managers of the acquiring company (the so-called "offeror company"). Typically, share prices of companies subject to a takeover bid increase by 20-30 percent in the short run. Top managers in the acquiring company also reap substantial benefits, since remuneration is to a great extent determined by the size of the company managed, and can thus be expected to rise after the takeover is completed. Top managers in the company being taken over may also benefit substantially, to the extent that they have "golden parachutes" or own shares or options in their own company.

These benefits however do not appear to be shared by employees and society as a whole. Takeovers frequently involve significant decreases in employment levels and working conditions. One of the key motives for many takeovers is cost reduction through reducing employment levels and benefits (such as wages and pension benefits), increasing work intensity and reallocating production to "cheaper" sites. Research on the employment impact of takeovers also shows that, on average, employment declines in a 2-3 year period after the takeover.

Although not yet systematically investigated, the high levels of debt taken on to finance many takeovers, e.g. for very large private equity takeovers (so-called "mega buyouts"), should also be mentioned as a cause of concern. The financial pressure on highly leveraged companies to meet interest payments during crisis conditions may lead to greater reductions in employment and investments (such as research and development) compared to companies with lower debt levels. Many of these companies also face substantial difficulties in refinancing their debt in the near future.

¹ http://ec.europa.eu/internal_market/company/takeoverbids/index_en.htm

A final point is that many companies that are acquired are better-performing, faster growing companies. The view in economic theory that takeovers (particularly hostile takeovers) are primarily a corrective for underperforming companies by replacing management therefore does not appear correct.

The key assumption underlying the takeover directive, namely that takeovers are on the whole in the interests of the European economy and should therefore be encouraged, is therefore challenged by the evidence. Many takeovers appear to be motivated instead by “empire building”, that is, the interests of top managers in increasing the size of the company they run. The tendency of takeovers to occur in waves at the peak of business cycles (when cash levels at companies are high and bank lending conditions generous) also suggests that takeovers are to a large extent determined by financial as opposed to operating factors.

In the review report, the Commission considers that the Directive is working satisfactorily. Nevertheless, some “clarifications” are envisaged with regard to the concept of “acting in concert”², national derogations to the mandatory bid rule³, board neutrality and breakthrough rules⁴.

The ETUC does not support further liberalization of the current legal framework, in particular having regard to hostile takeovers. It is therefore essential that adequate defensive mechanisms remain in place. With regard to the board neutrality rule, it should be clarified that the board of the offeree company must act in the long term interest of the company and its stakeholders.

An inadequate protection of employees’ rights

The Commission acknowledges in its report that employee representatives are not satisfied with how the takeover bids Directive protects the rights of employees and that it will pursue its dialogue with a view to exploring possible improvements. The ETUC very much welcomes the broadening of the discussions to include workers’ rights and stresses that cosmetic changes will not suffice. A complete rethinking of the provisions on workers’ rights is urgently needed, with a view to bring the Directive in line with the rest of the Community acquis.

In particular, the ETUC calls for:

² Art 2 (1) (d) of the Directive defines acting in concert as the cooperation with the offeror or the offeree on the basis of an express or tacit agreement aimed at acquiring control of the offeree company or at frustrating the successful outcome of a bid.

³ Art 5 stipulates that if an entity acquires control over a company, it is obliged to make a full takeover bid for all the remaining voting securities at an equitable price.

⁴ The board neutrality rule provides that during the bid period, the board of the target company must obtain prior authorisation of the shareholders before frustrating the bid (Art 9). The breakthrough rule neutralises pre-bid defences such as share transfer or voting restrictions during a takeover (Art 11).

- a. A clear reference to Directive 2001/23/EC on safeguarding of employees' rights in the context of transfer of undertakings:

Directive 2001/23/EC is one of the cornerstones of European labour law. According to this instrument, a transfer of undertakings does not in itself constitute valid grounds for dismissal. This means that unless dismissals can be motivated for economic, technical or organisational reasons not connected to the transfer, rights and obligations arising from an employment relationship shall be maintained after the transfer. Information and consultation about the proposed transfer must also be carried out beforehand.

Currently, workers who are the subject of a transfer where the legal personality of the company has not been changed (which is the case of a share sales) do not benefit from the protection of Directive 2001/23/EC. The ETUC has repeatedly called for a uniform application of this Directive to all workers in the EU. It is absurd that workers in a similar situation should be treated differently depending on whether or not their company is listed.

- b. Consultation rights

Worker “voice” during a takeover bid is extremely weak. Currently, employee representatives can express their opinion, and this opinion is supposed to be forwarded by management to the shareholders of the offeree company. However, only the shareholders in the “target company” have the right to decide on whether or not to accept the takeover offer. These shareholders will typically not share the interests of employees in the long-term sustainability of the company. Instead, they have a great incentive to “cash in” on the premium in the takeover bid and “exit” the company by selling their shares.

A specific right to consultation must be introduced in the Takeover Directive. “Consultation” should be understood as the establishment of a meaningful dialogue between employees’ representatives and both the offeror and the offeree, with a view to reach an agreement on the proposed measures. It is very important that this dialogue takes place before any decision is finalized and that both existing management and the acquiring company are involved.

- c. Effective sanctions

Currently, the takeover Directive merely relies on the Member States to determine effective, proportionate and dissuasive sanctions for the infringement of the Directive. This provision is clearly insufficient and has failed to guarantee proper implementation.

The Directive contains obligations to inform employees’ representatives about certain aspects of the bid, in particular with regard to the repercussions on employment. Although offerors are required by the Takeover Directive to provide information on their “intentions with regard to the future business of the offeree company”, including employment levels and conditions, these stated intentions

are frequently not fulfilled in practice, and there are no effective sanctions for this non-fulfillment.

The takeover Directive also foresees that the rules on information and consultation contained in other EU instruments such as the European Works Council Directive must be applied. However, these obligations are frequently not respected in practice.

The ETUC considers that the only way to guarantee the respect of the obligations contained in the Directive is to provide that the legal effects of the takeover should be suspended until all the obligations have been adequately fulfilled. This should be the case in particular in instances of serious violations of employees' right to information and consultation.

d. The right to expertise

In order to provide a valuable and well informed input, employees' representatives often need to have recourse to expertise because of the complexity of questions surrounding bids for take overs. Experts can be specialist – lawyers, economists etc. – depending on the subject matter. Experts can also play a monitoring and supporting role. In this regard, expert can be trade union representatives.

The takeover Directive should grant employees' representatives a right to expertise. The cost should be borne by management and only employees' representatives should be able to select the most appropriate experts.



ETUC position on the General Data Protection Regulation – improving the protection of workers’ data

Adopted at the Executive Committee on 17-18 October 2012

Introduction

In January this year the European Commission presented two legislative proposals on data protection, one being a proposal for a “Regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) COM (2012)11” and the other being a “Directive on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data COM (2012)10” in order to revise the EU data protection rules dating from 1995. Those proposals were preceded by public consultation on the topic in 2009 and 2010.

Effective data protection is a fundamental right of any human being, which needs to be respected and guaranteed. In the EU the right to the protection of personal data is guaranteed in Article 8 of the Charter of Fundamental Rights of the European Union (CFREU), as well as in Article 16 TFEU, and it is inseparable from Article 7 CFREU; the right to respect for private life.

Improving the protection of workers’ data

Up until now the European Union has not had any specific legal instrument for protecting workers’ personal data. The ETUC has always stressed the need for more consistent protection of workers’ personal data throughout the EU including a European framework of common rules to strengthen legal clarity and certainty, as currently there is not only a great deal of variation in the way the European countries protect workers’ personal data, but also in the degree of protection.

The traditionally clear boundaries between work and personal time and space are increasingly becoming blurred due to technological developments and modern working patterns. It is therefore important to protect workers’ data at the workplace, whether this relates to data on health, the use of internet and emails, control cameras, the use of chips in the working environment or the use of biometrics. It is essential to establish clear rules on which data employers can collect concerning workers, how they should deal with it and how they may or may not use it. The protection should be valid from the moment of applying for a job, during the employment relationship and after termination of the employment relationship.

Although an update of the current rules is necessary, the Commission proposal for a General Data Protection Regulation does not improve data protection for workers. On the contrary, the situation for workers would even deteriorate in some Member States because of higher standards at the national level.

ETUC comments on the General Data Protection Regulation

The ETUC believes that the choice of a Regulation instead of a Directive is inappropriate. Due to its direct application at national level, certain national rules would become void and higher national standards might disappear. The ETUC is therefore advocating that the Regulation should be replaced with a directive.

In order to respect different labour market models and industrial relations system in Europe, the issue of data protection for workers should be regulated in a specific directive stipulating minimum standards that considers both the need for protection of workers' personal data and the role of trade unions when they act as a part of the collective bargaining process and need to have information about pay and conditions of the workers at the workplace. This would ensure that national standards would not be undermined and that the protection of workers could be more favourable. If the Commission would put forward such a directive, article 82 on the employment context should be withdrawn.

Article 82, as it currently stands, is unacceptable to the ETUC. Member States and the social partners must be able to ensure higher standards and protection regarding the processing of workers' personal data in the employment context. The limitation "within the limits of this Regulation" as stipulated in Article 82 should be deleted. Furthermore, the article should provide for the possibility of covering more favourable regulation on data protection through collective agreements if this is the practice in national industrial relation systems.

Throughout the text the Regulation gives the Commission the possibility of further regulating certain topics (delegated acts) without the European Parliament or the Council (although the former can use its right to veto). This makes it impossible to predict on which concrete points and in which way the Commission would adopt such delegated acts. On such a sensitive issue as data protection and specifically in the employment context this is unacceptable to the ETUC, as this gives the Commission regulatory powers without any democratic control.

Art. 12, 27 and 28 of the CFREU should be included in the Commission proposal in order to ensure that it respects the freedom of association, the right to information and consultation and the right to collective bargaining.

The proposal should respect and ensure the role of trade unions and worker representatives in the collection, processing and use of data as established in the different industrial relation systems (see Article 7 of the current Directive). This raises questions of access to electronic communication facilities as well as of application of protective rules to the communication between workers and their representatives and between representatives.

The right to information, consultation and participation of the EWC in case of the cross-border transfer of data must be clearly established.

The ETUC welcomes that the proposal is linking the lawfulness of data processing to the explicit consent freely given by the data subject and the recognition that consent cannot provide a legal ground for processing of personal data in cases of clear imbalance between the data subject and the controller (Article 7 par.4), such as an employment relationship (recital 34).

The ETUC welcomes the provision of the appointment of a data protection officer. Nevertheless, the threshold of 250 employed people is far too high, as this excludes too many workers from the rights as laid down in the proposal. In order to ensure the independence of the data protection officer, the following conditions need to be laid down: dismissal protection extending over the period of duty; participation rights of worker representatives when appointing a person to this position and information and consultation rights concerning problems and solutions; clear rules concerning training; clear rules on the exclusion of the liability of the data protection officer once he/she has requested the undertaking to eliminate detected problems and alerted the administration on data protection.

The ETUC supports the 'right to be forgotten', but this should include a limitation on the amount of time that employers can retain data after the worker has left their employment.

The ETUC strongly opposes the idea of excluding micro, small and medium-sized enterprises from certain obligations throughout the proposal, as the guarantee of fundamental rights cannot be made subject to the size of an undertaking. For example, we cannot agree to specific measures or exemptions for these companies in relation to the processing of the personal data of children (Article 8) or the obligation on maintaining documentation of processing operations (Article 28).

It should be prohibited for employers to collect data on trade union membership and activities, as well as data on the activities of workers' representatives. A ban should also be placed on collecting genetic information in the framework of employment relations and it should be prohibited for employers to have access to individual medical data.

The ETUC is also concerned that the creation of a single contact point for data protection would undermine national standards since it is only the main establishment that would be competent for the supervision of the processing activities (Article 51). Hence, data would only be processed by groups of companies through their headquarters.

The fact that an organisation or association or any other body can lodge a complaint with a supervisory authority or a court on behalf of a data subject is welcomed by the ETUC. But it needs to be explicitly recognised that those rights also apply in the employment context for trade unions.

The ETUC fears the imprecise provisions concerning the transfer of personal data to third countries since there is a risk of data being processed where the rules are the less stringent. This would undermine having higher data protection standards inside the EU.

The definition of data must also include all manual processing.

Profiling raises particular concern in the employment context and should be forbidden.

The ETUC will ask the Members of the European Parliament and the national governments to address these points in the legislative process.



ETUC day of action and solidarity for a Social Compact for Europe

Declaration adopted by the ETUC Executive Committee at their meeting on 17 October 2012

The ETUC Executive Committee meeting on 17 October 2012 call for a day of action and solidarity on 14 November 2012, including strikes, demonstrations, rallies and other actions, mobilising the European trade union Movement behind ETUC policies as set down in the Social Compact for Europe.

They express their strong opposition to the austerity measures that are dragging Europe into economic stagnation, indeed recession, as well as the continuing dismantling of the European social model. These measures, far from reestablishing confidence, only serve to worsen imbalances and foster injustice.

While supporting the objective of sound accounts, the Executive Committee consider that the recession can only be stopped if budgetary constraints are loosened and imbalances eliminated, with a view to achieving sustainable economic growth, and social cohesion, and respecting the values enshrined in the Charter of Fundamental Rights.

Fiscal consolidation had a sharper effect than originally estimated by Institutions, including the European Commission and the International Monetary Fund (IMF). Indeed the IMF now admits that they grossly miscalculated the impact austerity measures have on growth. This miscalculation has an unmeasurable impact on the daily life of workers and citizens the ETUC represents, and brings into question the whole basis of austerity policies advanced by the Fiscal Treaty and imposed by the Troika.

The Executive Committee note mounting opposition among citizens and workers in the countries concerned and reaffirm their support for affiliated unions fighting for decent working and living conditions. This situation results from the lack of coordination of economic policies and the absence of minimum social standards throughout Europe. In the context of free movement of capital, this gave free rein to competition between states, in particular in the field of taxation, labour costs and social conditions.

They reiterate that social dialogue and collective bargaining are central to the European Social Model. They strongly oppose the frontal attacks on these rights, at national and European level. The ETUC Executive Committee urgently calls for immediate adoption and transposition of the European social partners agreements currently before Council.

They recall that the Union is treaty-bound to “work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment”. They further recall that the ETUC’s support for the Lisbon Treaty was mainly predicated on the full application of those objectives.

They note that discussions are currently under way among Institutions and governments

about the desirability of further treaty changes. A change of direction is necessary and priority should be given to resolving the crisis in line with the three pillars of our proposed Social Compact for Europe, which is gathering increasing support. This is articulated around social dialogue & collective bargaining, economic governance for sustainable growth & employment, and economic, tax & social justice.

They insist that active solidarity, social progress and democratic accountability must be an integral part of the European project. They consider as essential that a social progress protocol to be included as an integral and operative part of any new treaty. The ETUC will evaluate any new step in European integration on this basis.



European Commission's consultation on the Transnational Company Agreements (TCAs)

Position of the ETUC adopted by the ETUC Executive Committee at their meeting on 17-18 October 2012

Background

In recent years Transnational Company Agreements (TCAs) have become an increasing practice in transnational companies. About 220 texts of different kinds (agreements, protocols, declarations, etc.) have been signed in 138 multinational companies covering more than 10 million workers worldwide. Almost 85% of such TCAs should be defined as European Framework Agreements (EFAs) according to their geographical scope.

The ETUC Discussion Note "More and Better European Company Framework Agreements: Enhancing Trade Unions in Transnational Negotiations with Transnational Companies" (Discussion Note) was submitted to the ETUC Executive Committee on 5-6 June 2012 with the aim of informing the ETUC affiliates about the most recent developments in this field and of clarifying the role of European trade unions in triggering and leading transnational negotiations with multinational companies.

The Discussion Note also draws attention to the opportunities and difficulties concerning the implementation of transnational agreements. In the Annex to the Discussion Note, the ETUC illustrates the recurrent characteristics of the procedures for negotiating and managing EFAs established by European Trade Union Federations.

The Discussion Note also underlined the idea that EFAs and transnational negotiation should support and enhance national collective bargaining practices and possibly help in disseminating positive collective bargaining results from the countries where industrial relations are stronger to the other European countries. Any kind of misuse of EFAs by the companies aimed at undermining national practices and collective bargaining systems should be countered.

On the 10th of September the European Commission issued the Staff Working Document "Transnational company agreements: realising the potential of social dialogue" (Staff Document). The Staff Document provides some conclusions - largely based on the outcomes of the Group of Experts that was in place from 2009 to 2011 - in order to follow up the invitation contained in the Communication COM(2012)173final "Towards a Job-Rich Recovery" in which it is stated that the role of TCAs "needs to be better recognised and supported" and invites the European Commission to "develop further action to disseminate good practice and promote debate with respect to Transnational Company Agreements".

The Staff Document considers transnational negotiations with multinational companies to be

part of the social dialogue at European level and therefore any initiative to enhance it “requires as far as possible convergence, consensus and joint initiatives of the social partners”.

The Staff Document also launches a public consultation aimed at collecting the opinions of relevant stakeholders on the main issues raised in the document and summarised in 9 key questions concerning the general scope and amplitude of a European policy – more precisely, they refer to the actors, legitimacy, transparency, implementation, legal effects and dispute resolution concerning TCAs.

This Resolution is aimed at defining the ETUC position, in order to provide a joint response to the European Commission’s consultation on transnational negotiations with multinational companies. This Resolution is also meant to be a reference for those affiliates who wish to submit their responses to the public consultation.

The ETUC’s position

The ETUC welcomes the Staff Document of the European Commission as it shows that the exercise carried out with experts and social partners in recent years has achieved the objective of creating a common understanding of the phenomenon and can establish common recommendations for European social partners that wish to negotiate at transnational level.

In particular, the ETUC looks positively on the establishing of an enabling environment for EFAs as they have shown to ‘have greater capacity to attain their initial objectives’ and they ‘may refer to a more homogenous set of rules and traditions’ (see also Staff Document, page 5).

EFAs can have positive effects on social dialogue from different perspectives:

- They can promote upwards harmonisation of working conditions throughout the operations of the same transnational company (TNC) in different countries so that higher standards prevail everywhere, with full respect of national collective bargaining traditions;
- They can provide innovative routes for anticipating change in transnational companies;
- In cross-border restructuring processes, they are an instrument for building a larger cross-border solidarity, facilitating the cross-border mediation of interests;
- They can support and enhance social dialogue in countries where industrial relations are underdeveloped.

If, on the one hand, EFAs can play a relevant role in enriching industrial relations in TNCs, it is necessary on the other hand to get rid of the uncertainties and obstacles that are currently hampering transnational negotiations. The existing shortfalls in defining the entitled actors and their mandate, in the form and transparency of the agreements, in the link between the implementation of transnational agreements’ results and full respect of national collective bargaining traditions and in the provisions aimed at preventing legal disputes can undermine the concrete application and effects of EFAs at national and branch level.

Therefore, the ETUC agrees that EFAs should be supported and further developed, in social dialogue at cross-industry and sectoral level. The engagement of the European Commission is welcome as long as it respects the autonomy of the national and European social partners in developing transnational negotiations and in setting the rules of the game themselves.

Many ETUFs, together with their national affiliates, have already established (or are on the way to establishing) the procedures in which transnational negotiations should take place (see examples attached). Such procedures have been demonstrated to work and present relevant elements of convergence in envisaging a procedural framework for negotiations at European level.

ETUFs' procedures for transnational negotiations with TNCs have already provided concrete answers to the questions addressed by the Commission in the Staff Document and in particular in clarifying issues concerning:

- The actors entitled to carry on negotiations and sign the agreements;
- How to get the mandate to negotiate and set up the delegations, with strict cooperation between ETUFs and national trade unions;
- The best form of the agreements, in order to ensure the implementation of their legal effects in and in full respect of different national contexts;
- Provisions aimed at preventing legal disputes, also through monitoring systems, first level dispute resolution mechanisms, penalties etc. (without prejudice to the national dispute resolution systems);
- Non regression clauses to be included in all EFAs;
- Proper paths for promoting the transparency and dissemination of information regarding EFAs.

After having studied the current practices and analysed the solutions that parties have worked out for their negotiations, the ETUC is convinced that the ETUFs should lead the negotiations and be the actor entitled to sign an EFA, in strict cooperation with relevant national trade unions through appropriate mandate and negotiation procedures. The ETUFs are already recognised as the actors by the European Commission and their representativeness is established beyond doubt. The Staff Document recognises this implicitly by referring to the link to the European sectoral social dialogue. On the employees' side, the ETUFs are responsible for properly involving the entitled national and company level trade unions in the European negotiations according to the different national practices, and (when required by such practices) the works councils.

European Works Councils and other actors (like IRTUCs – Interregional Trade Union Councils) are able to detect the need/opportunity for a transnational agreement, initiate the process and/or pave the way for negotiations, help in ensuring the transparency and dissemination of information concerning the agreements towards the workers involved. It has to be stressed that the EWCs do not have a negotiation mandate. It will be up to the ETUFs, in strict cooperation with their national affiliates, to design the procedural rules in which EWCs and other relevant actors can play a role as long as they can enrich the final content of the agreements and improve their implementation.

Such procedures have not been adopted by all ETUFs or not applied in all sectors covered by ETUFs. The ETUC will cooperate with ETUFs in order to encourage the adoption and spread of suitable procedures for transnational negotiations with transnational companies to ensure a coherent setting of rules in different sectors and across sectors (in case of multi-sectoral companies), in line with the principles adopted by ETUFs.

Too often, the nature and degree of binding capacity of an EFA remains uncertain because of the deficiencies of the mandate enjoyed by the employer and/or by the management at national/branch level. Starting and concluding negotiations always depends on free and joint decisions by the parties, but in the absence of shared procedures and rules it can be very difficult to distinguish between proper agreements and mere non-binding declarations, and to ensure the full implementation and legal effects of EFAs.

It cannot be excluded that third parties (national courts or extrajudicial bodies) may be called upon to resolve conflicts or disputes in the interest of either one of the signatory parties or the beneficiaries of the agreements (e.g. an individual employee).

Certain legal implications of an EFA cannot be effectively handled by social partners and predefined optional and viable legal solutions may be of help for faster and more effective negotiations. A procedure leading to a clear mandate for negotiations, as well as the strong involvement of national trade unions could contribute to solve these problems, since it is at national level that TCAs have to be transposed.

Therefore, while preserving the autonomy of the social partners in establishing the rules of the game, we should be aware that certain legally-related aspects of transnational negotiations may need further support in terms of an optional framework of rules and recommendations.

An optional framework of rules for transnational negotiation with multinational companies may still be needed to provide references for those who wish to be engaged in transnational agreements. It is mainly due to some ambiguities that trade unions alone cannot resolve, especially when the negotiating parties desire to achieve binding commitments whose terms are supposed to be applicable in different countries with the same extent and effectiveness.

Collective bargaining is a trade union prerogative whether at enterprise, national or European level. For that reason the legitimacy of actors is a key issue in any European initiative and implementation of agreements has to be done in accordance with existing national practices.

Furthermore, the optional framework should state how conflicts and disputes over EFAs shall be solved and also how to solve disputes regarding the interpretation of the optional framework.

The ETUC looks favourably on the adoption of an optional frame of rules and recommendations for EFAs and largely agrees with the possible contents of such a framework, as described in Staff Working Document. It's up to the European Commission to propose to the European social partners the proper European legal tool for supporting this process, in order to open further consultation and possible negotiation.

We are aware that the most representative employers' associations at European level currently have a negative attitude towards getting engaged in such an exercise, but the ETUC is confident that a different opinion may emerge from many of the multinational companies

operating in Europe and from the sectoral employers' organizations, notably in the context of the sectoral social dialogue. The sectoral social dialogue would be the more appropriate level for developing and implementing such a framework of rules and recommendations.

An optional framework will also help the European Commission and social partners to improve the database on TCAs through better definitions of the agreements according to their scopes, forms, commitments, procedures and effects, as well as to set up a European procedure for the registration of the agreements.

Annex:

ETUFs procedures for transnational negotiations with TNCs

The debate around transnational negotiations has been of overwhelming intensity. It is a commonly-held opinion that the absence of rules has made negotiations with TNCs more complex. Autonomy and flexibility work as an incentive in a start-up phase. However, as time passes, the absence of general rules becomes an obstacle to effectively implementing agreements.

The ways in which transnational negotiations are triggered and managed vary greatly. A large number of texts have been signed by EWCs, national unions and European Federations. Sometimes they have negotiated alone, in other cases in cooperation amongst themselves but with different structures and procedures.

Many ETUFs have already developed their internal rules for transnational negotiations with TNCs in order to establish their legitimacy as the negotiating and signatory party from the workers' side.

According to the **IndustriAll** procedures¹, the European federation must be informed of the opportunity for triggering a transnational negotiation in a transnational company. The initiative mostly comes from an EWC but sometimes it comes from a national union or the works council of the company concerned or by the European Federation itself. Current EFAs have been negotiated in companies in which an EWC exists. It shows the relevance of the EWC in creating an enabling environment for transnational negotiations. According to IndustriAll policy, EWCs should be involved from the beginning in order to take advantage of their privileged position in the company.

If negotiations take place, the IndustriAll takes the lead. A delegation of the European federation will be set up and will include a representative from most countries (major players) in which the agreement is supposed to take effect. The IndustriAll delegation will be composed of national trade union officials and unionised members of the EWC, duly mandated by their national organisations. The negotiation team must include at least one representative from IndustriAll European Trade Union and/or the EWC coordinator, and/or a representative of the trade unions involved, one of whom will lead the negotiations. The IndustriAll Secretary will act as the leader of the delegation and will be the spokesperson. If an agreement is reached, it will be signed by the IndustriAll General or Deputy general Secretary.

¹ Please note that similar procedures had been adopted by EMF, EMCEF and ETUF-TLC. The recently established Federation IndustriAll will continue to use the procedure as hereby illustrated.

The IndustriAll procedure is designed to make the EFA as binding as possible. The procedure is designed to give voice to both the national organisations and the EWCs concerned but also to prevent these small minority groups from definitely vetoing the eventual start-up of European negotiations/agreements. It is for that reason that countries representing less than 5% of the workforce cannot veto the decision to start negotiations. The results of negotiations are endorsed in each country with a qualified two-third majority according to national practices and rules.

Agreements signed by the IndustriAll according to its procedure derive their validity from the IndustriAll statutes and thus bind and commit all the concerned parties. The IndustriAll does not recognise as equally valid agreements signed outside this procedure.

EFFAT has established its own procedure even if its political agenda does not prioritise the establishment of EFA in transnational companies. According to EFFAT procedure, the EWC or the national unions must immediately inform the European federation of the opportunity of negotiating an EFA. In this case, EFFAT receives its mandate from the Executive Committee and a trade union delegation led by EFFAT will be set up. EFFAT's executive committee is to be kept informed about the ongoing negotiations and their outcomes. The agreement has to be approved by national unions and the organisations involved in the executive committee according to the 2/3-majority rule.

According to EPSU rules, when a company indicates its intention to start negotiations, or the EWC or the trade unions involved in the company express such a wish, then EPSU procedure should be respected.

The decision to trigger negotiations will be taken in a meeting with the national unions and the EWC. A decision will be taken according to the rule of 2/3-majority in each country. EPSU asks its national organisations to disclose the procedure through which they have voted or decided. However, countries representing less than 5% of the workforce cannot veto the decision to start negotiations.

Mandates can be discussed case by case but, as general rule, a mandate should be endorsed unanimously. If not, the 2/3-majority rule and the 5% threshold will apply. The mandate will specify the scope of negotiations, the composition of the delegation and a non-regression clause.

The EPSU delegation will be made up of a negotiating/monitoring group and a negotiating team. The latter is tasked with achieving an agreement with the company's management. The team can be led either by an EPSU Secretariat representative or by a national trade union official. The negotiating team may include EWC representatives.

The text is submitted to the negotiating/monitoring group. Once approved by the negotiating/monitoring group, the agreement needs to be adopted at national level according to the 2/3-majority rule. Should the agreement be rejected in a given country, none of the unions of that country should sign the agreement.

The agreement will be signed formally by the General Secretary or Vice-General Secretary (or other person duly mandated by them). It will include all the organisations concerned. The latter will have the task (commitment) of implementing the agreement in their own countries according to their own practices and traditions.

UNI-Graphical has also decided on a mandate and negotiation procedure identical to the one in force at the IndustriAll Federation.

Recurrent elements in ETUF procedures:

- Recognition of the EWC role in creating an enabling environment for transnational negotiations. Trade union members of EWCs should be entitled to be part of the European delegation, which negotiates an EFA, as part of the Trade Union mandated negotiators.
- European Federations must be informed of the possibility of starting a negotiation for an EFA. European federations take a leading role and sign agreements.
- National unions must be part of the negotiations but they have to mediate their specific national interests within the procedures adopted at European level.
- The search for consensus is the leading principle. In order to introduce democratic elements into a situation of divergent interests the 2/3-majority rule applies within each country. Blocking minorities are subject to the threshold of 5% of the workforce.
- Procedures and mandate formation will make the agreements legally stronger and ensure their enforceability at national level.
- Information on the ongoing negotiations and their results are normally communicated to the executive committee of the ETUFs and other coordination bodies. Communication at national level and implementation into national level of collective agreements falls under the competence of the national organisations.



A Social Compact for Europe

ETUC resolution adopted by the Executive Committee at its meeting on 5-6 June 2012

Gathered within the European Trade Union Confederation, we, trade union leaders of Europe, want to launch an appeal and propose a Social Compact for Europe.

We see increasing inequalities, rising poverty and exclusion, soaring unemployment, work insecurity that affects particularly young people, and growing disillusion about the European project.

We see a worrying increase in nationalism, racism and xenophobia. This trend, exacerbated by low wage competition, could lead to a rejection of the European project that the ETUC has always supported.

We see that the post-war economic and social settlement, which led to the creation of the European Union and the European social model, is threatened. This unique social model has brought considerable gains for citizens and workers and has allowed us to rebuild from crisis to prosperity.

We affirm that fundamental social rights must have priority over economic freedoms. That is the spirit of the Charter of Fundamental Rights integrated in the Treaty of Lisbon. That should be emphasised in a Social Progress Protocol to be appended to the Treaties.

We believe that monetary union must serve the European integration process, based on the principles of peace, democracy and solidarity, as well as economic, social and territorial cohesion. This is the way to secure a future for citizens in a globalised world.

We recall that the EU's stated purpose is economic and social progress. Achieving the EU's 2020 objectives requires socially stable societies, sustainable economic growth and financial institutions serving the real economy.

We believe that it is through social dialogue that we will be able to seek fair and efficient solutions in response to the grave crisis that the Union faces. But, regrettably, we see democracy at work and social dialogue often being disregarded, attacked and undermined.

We call on the EU to focus on policies improving living and working conditions, quality employment, fair wages, equal treatment, effective social dialogue, trade union and other human rights, quality public services, social protection - including fair and sustainable health and pension provisions - as well as an industrial policy favouring a just transition towards a sustainable development model. Such policies would contribute to building citizens' trust in their common future.

We reject all policies leading to downwards competition be it on labour rights, wages, working

time, social security, taxes or the environment.

We support coordinated economic policies as well as the objective of sound public accounts but we deplore the economic governance measures put in place that undermine social achievements of the past decades, stifle sustainable development, economic recovery and employment and destroy public services. This is why we oppose the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG).

We are also concerned at the method used to produce the TSCG Treaty that excluded meaningful involvement of the European Parliament and citizens.

We insist that the EU and its member states should observe scrupulously European and international instruments such as ILO conventions, the jurisprudence of the European Court of Human Rights and the revised European Social Charter, to which the European Union should accede as well as to its Protocol providing for a system of collective complaints (1995).

For all these reasons, we demand a Social Compact for Europe, the contents of which we offer to discuss and agree upon at EU tripartite level.

The European Trade Union Confederation considers that the following elements should be included in this Social Compact:

Collective bargaining and Social dialogue:

Free collective bargaining and social dialogue are an integral part of the European Social Model. Both must be guaranteed at the EU and national level. Each member state should put in place the relevant supporting measures;

The autonomy of the social partners at national and European level as well as their role and position must be respected; there must be no unilateral intervention by the public authorities in collective bargaining or existing collective agreements; and coverage of workers by collective agreements should be maximised;

Effective involvement of social partners, as from the diagnostic phase, in European economic governance and national reform plans is essential. Efforts to adapt to changing circumstances should be commensurate with peoples' means and not be borne by workers and their families alone.

Economic governance for sustainable growth and employment:

Urgent measures to bring the sovereign debt crisis to an end and give the ECB the role of lender of last resort, thus enabling it to issue Eurobonds. Growth programmes adapted to each country should be discussed, agreed and monitored with social partners;

European industrial and investment policies aimed at meeting the economic and environmental challenges; priority should be given to investments in sustainable infrastructure, research and development, climate technology and renewable resources. They should not to be included in the calculation of public deficits;

Rules to secure a regulated, solid and transparent financial sector at the service of the real economy;

Extra resources, raised from improved use of the European structural funds, the European Investment Bank, project bonds, and an adequately engineered financial transaction tax, should be allocated to social and environmental purposes;

Stop EU pressure to liberalise public services which are a national responsibility;

Decent wages for all, contributing to growth and internal demand;

A youth guarantee for all young people in Europe, ensuring the provision of a decent job, or of adequate training opportunities, within four months of unemployment or leaving school;

Measures to improve the quality of jobs and combat precarious jobs; fight abuses in the practice of part time, temporary and fixed term contracts;

Active labour market policies including initiatives to support people with little or no links to the labour market.

Economic and social justice:

Redistributive and graduated taxation on income and wealth, and the end of tax havens, tax evasion, tax fraud, corruption and undeclared work;

Determined action against speculation;

Effective measures to secure equal pay and equal rights for work of equal value for all; collective agreements and equal wages should apply to all whatever the form of their contract, specifically when they work at the same work place;

Implementation of policies to end the pay gap between women and men;

Wage-setting to remain a national matter and to be dealt with according to national practices and industrial relation systems. Negotiations between social partners at the relevant level are the best tool to secure good wages and working conditions; the statutory minimum wage, in those countries where trade unions consider it necessary, should be increased substantially. In any event, all wage floors should respect Council of Europe standards on fair wages.

Harmonisation of the corporate tax base and minimum rates of taxation for companies, possibly with the introduction of a minimum rate of 25%, the current average level of imposition in Europe.

We call on European employers' organisations, EU institutions, national governments and supportive organisations to engage in a discussion on this ETUC proposal for a Social Compact for Europe.



Towards greater education and training for social Europe: ETUC Action Programme on lifelong learning and VET

Adopted at the Executive Committee on 5-6 June 2012

Part One Background Information

1. EU context

Lifelong learning has been a key policy of the European Union since its early days.

Trade unions are also committed to make lifelong learning a reality for all. Not only with respect to labour market needs but also as a fundamental component of an individual's development.

In recent years, also due to the challenges with which Europe is being confronted, education, training, and professional and vocational learning and development have become increasingly important items on the agenda of EU institutions, member states and social partners.

A sustainable and high quality lifelong learning policy is essential for educating and preparing individuals for life, supporting job creation, recovery and mobility. It would also help to foster trust in the construction of a strong and inclusive European Union, with the active involvement of all citizens, and especially social partners, in policy making and implementation.

Europe's current challenges indicate that the direction of the reforms on VET undertaken at EU level (i.e. the Copenhagen process) remains the right one for the years to come. The ETUC Action Programme, adopted in Athens, identifies four drivers of change that will shape Europe's economies and societies and the demands for its VET systems: the economic crisis; developing a low carbon economy; labour market trends towards more skill-intensive jobs; and Europe's future skill supply and demand.

Social partners, and notably trade unions, can play an important role in addressing these challenges, through social dialogue and collective bargaining activities at every level, as well as through direct involvement in the implementation of lifelong learning actions for workers.

Between 2008 and 2010 Europe lost around 5.5 million jobs due to the economic slowdown. The crisis has also constrained economic growth and skill demand which will lag behind skill supply and may lead to over-qualification in the short term;

One in five young people in Europe cannot find a job. The youth unemployment rate (at over 20% and in some countries as high as 50%) is twice as high as for the whole working population. 14% of young people leave school without a diploma;

76 million people of working age (24-64) have either a low level of qualification or no

qualifications at all. This figure represents nearly 30% of the European workforce.

At least 40% of 30-34-year-olds should complete third level education by 2020, nevertheless there is still a lack of flexible pathways between vocational education and training schools and higher education institutions;

Cedefop's latest estimate states that there could be around 83 million vacant posts between 2012 and 2020, with the creation of 8 million new jobs and 75 million jobs becoming vacant due to retirement or people leaving the labour market. Most job opportunities will be in services (including tourism, health care and IT). The trend towards more skill-intensive jobs at all levels will continue and many traditional manual or routine jobs will decline;

Even if the new jobs end up being at the higher or lower end of the job spectrum most job opportunities will still be those requiring medium-level qualifications (including many vocational qualifications) and will continue to employ around half of Europe's workforce;

The polarization of employment has a corresponding effect on the polarization of wages, which are high for highly skilled workers and conversely decrease for the low and unskilled people. At the same time highly qualified workers can also experience underpayment or undervaluation of their performance and in times of economic downturn workers often are obliged to undervalue or hide their qualifications in order to find work more easily;

Despite its many benefits, vocational education and training are not highly regarded, although evidence shows that training not only helps to integrate disadvantaged target groups, but also leads to wider social and economic benefits equal to those achieved by general education;

Many countries in Europe have reformed or looking to introduce apprentice systems with the aim to achieve better interaction between education and employment systems; reducing youth unemployment and strengthening companies by supplying the next generation of skilled workers. Some EU Member States have already developed good systems (i.e. the Nordics, Germany, the Netherlands, etc.), but in the majority of the EU countries reforms have still have to be implemented to enhance the accessibility and quality of existing apprenticeships schemes.

Investment in continuous training by enterprises remains low, especially in SMEs. The crisis has even worsened the performance of enterprises providing continual training and public financing does not help to change companies' reluctance to provide it. This is a worrying trend especially in a context where many member states have severely reduced their investment in education and training;

Only 4.8% of adults (50-64 year olds) participate in learning programmes, although the EU target under the Education and Training strategy is 15% by 2020. From 2014 the EU's working population will start to shrink, making it ever more vital to constantly update and upgrade adults' competences and skills in preparation for a prolonged working life;

Possible teacher shortages are to be expected in the near future. In many European countries, the majority of teachers currently employed are close to retirement and there is a significant fall in the proportion of graduates in the field of education and training mostly as a result of the influence of the economic and financial crisis in the education sector. This has also contributed to the privatization of formal education institutions, to the merger and closure of schools, and to the dismissal of significant number of teachers from all levels of the education

sector. Cuts in the educational budgets risk the quality of education and Europe's recovery from the crisis.

2. The EU Agenda and programmes

The EU has set up an ambitious agenda on lifelong learning. A variety of initiatives and instruments have been developed. They are currently under implementation at various levels and require the full participation of a variety of stakeholders, including trade unions.

The main reference document is 'Europe 2020 – the European strategy for smart, sustainable and inclusive growth' which proposes five headline targets for 2020, two of which are directly linked to education and training and labour market policy:

- i. 75% of the population aged 20-64 should be employed;
- ii. the share of early school leavers should be under 10% and at least 40 % of the younger generation should have a tertiary degree.

In order to meet these global targets the European Commission has proposed seven flagship initiatives¹, two of which are directly linked to education and training and the labour market, 'An Agenda for New Skills and Jobs' and 'Youth on the Move'.

In parallel the EU has entered a new stage in the 'Copenhagen Process'. The Bruges Communiqué, agreed by Member States and the social partners in December 2010, sets out future priorities for enhanced European cooperation in vocational education and training with 11 strategic objectives for the period 2011-2020 and 22 short-term deliverables for the first four years (2011-2014)².

Since 2002, the EU has also put in place "common European tools", principles and guidelines to make qualifications more transparent, comparable and transferable, as well as to improve flexibility and quality of training. The current tools in place are: the European Qualifications Framework (EQF)³, the European Credit System for Vocational Education and Training (ECVET)⁴, the European Quality Assurance Reference Framework for Vocational Education and Training (EQAVET)⁵, EUROPASS⁶ and European Skills/Competences, Qualifications and Occupations (ESCO)⁷.

Furthermore, the EU is in the process of adopting recommendations on the validation of non-formal and informal learning and reviewing the Professional Qualifications Directive (2005/36/EC)⁸.

In parallel, EU Member States, in conjunction with another 20 countries, launched the European Higher Education Area (EHEA), previously known as the 'Bologna Process', in March 2010, and the European Credit Transfer and Accumulation System (ECTS).

¹ http://ec.europa.eu/europe2020/tools/flagship-initiatives/index_en.htm

² http://ec.europa.eu/education/lifelong-learning-policy/doc/vocational/bruges_en.pdf

³ http://ec.europa.eu/education/lifelong-learning-policy/doc44_en.htm

⁴ http://ec.europa.eu/education/lifelong-learning-policy/doc50_en.htm

⁵ <http://www.eqavet.eu/gns/home.aspx>

⁶ <http://europass.cedefop.europa.eu>

⁷ <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=852>

⁸ http://ec.europa.eu/internal_market/consultations/2011/professional_qualifications_directive_en.htm

All these tools and principles constitute an integrated framework, the impact of which depends on their consistency and on how they interact.

It should be noted that the EU has adopted a series of different programmes which can be used to support the development of European common tools as well as education and training activities in general. These are: the European Social Fund, which helps the integration of the unemployed and disadvantaged sections of the population into working life, mainly by funding training measures (with a budget of approximately 75 billion Euros for the period 2007 to 2013)⁹. The European Commission is now working to prepare a new generation of EU funding for programmes which will cover the period 2014 – 2020.

Another important programme in this domain is the Lifelong Learning Programme, which funds projects at different levels of education and training - Comenius for schools, Erasmus for higher education, Leonardo da Vinci for vocational education and training, Grundtvig for adult education¹⁰. The new Lifelong Learning programme “Erasmus for all” aims at simplifying and streamlining the old programme into interrelated policy priorities and is currently being discussed at Parliament and Council level and will be finalised by the end of 2012.

Recently, the European Commission adopted an employment package containing measures for an EU job-rich recovery¹¹. Among the different policies addressed, the package recognizes lifelong learning as key to security in employment and puts forward initiatives in order to reach a threefold objective: better monitoring of skills needs, better recognition of skills and qualifications and a better synergy between the worlds of education and work.

Finally, a relevant actor in strengthening European cooperation in vocational education and training is CEDEFOP, whose mandate is to provide information on, and analyses of, vocational education and training systems, policies, research and practice, which are being used increasingly in the preparation of policy-making.

Although the ETUC welcomed the adoption of most of these initiatives, on various occasions we have underlined that better coordination with all the EU tools is needed, to avoid duplication of work as well, and that the social partners should be involved and consulted at all levels if the initiatives are to be successfully implemented.

The ETUC also emphasises the fact that in order to deliver the expected results the EU skills strategy should be linked and coherent with a sustainable and forward looking EU industrial strategy.

3. EU Social Dialogue and education and training: past achievements and the way forward

Article 3 of the Athens Manifesto commits the ETUC to placing more and better jobs at the top of the European agenda and at the heart of EU economic governance, and reflecting this in the European Social Dialogue as well as in the evaluation of the 2020 strategy and Single Market Act. The Strategy and Action Plan from the 12th ETUC Congress underlines, inter alia, the following:

- *‘In the future, even more emphasis and resources will need to be devoted to improving workforce skills in accordance with the needs of our time’;*

⁹ http://ec.europa.eu/employment_social/esf/

¹⁰ http://ec.europa.eu/education/lifelong-learning-programme/doc78_en.htm

¹¹ <http://ec.europa.eu/social/BlobServlet?docId=7619&langId=en>

- *'Access to quality education and lifelong training for all is a right that must be recognized and implemented'.*

Prior to the Congress, the ETUC Executive Committee passed a resolution in March 2009 on initial and continuous vocational training for a European employment strategy¹² and a further resolution in December 2010 on more investment in lifelong learning for quality jobs¹³.

The ETUC also signed a Framework Agreement on Inclusive Labour Markets with BUSINESSEUROPE, CEEP and UEAPME in March 2010, which emphasized the following¹⁴:

- *Cooperating with education and training systems in order to better match the needs of the individual and those of the labour market, including by tackling the problems of basic skills (literacy and numeracy), promoting vocational education and training and measures to ease the transition between education and the labour market.*
- *Introducing individual competence development plans (in line with the framework of actions for the lifelong development of competences and qualifications) jointly elaborated by the employer and the worker, taking into account the specific situation of the employer, particularly SMEs, and worker....*
- *Improving transparency and transferability, both for the worker and for the enterprise, in order to facilitate geographical and occupational mobility and to increase the efficiency of labour markets (by promoting the development of means of recognition and validation of competences; by improving the transferability of qualifications to ensure transitions to employment; by promoting more and better apprenticeship and traineeship contracts).*

The Framework Agreement on Inclusive Labour Markets is currently being implemented by social partners at relevant levels.

More recently, in their Joint Work programme 2012 – 2014 the EU social partners recognized that the continuous development of competencies and the acquisition of qualifications are a shared interest and responsibility for employers, employees and public authorities. For enterprises, access to and development of a skilled workforce is one of the conditions for innovation and competitiveness. For workers, acquiring, updating and developing relevant knowledge, skills and competences throughout their working lives is the most effective way to find and remain in employment.

In 2002, European social partners adopted a framework of actions on the lifelong development of competencies and qualifications. The EU social partners affirmed jointly that the four priorities within this framework of actions remain valid in the current situation. Nevertheless, the following two issues have emerged since 2002: 1) Skills needed in greening economies; 2) the update and upgrade of the skills of older workers in the context of longer working lives. They will consequently take action on these two issues using the existing matrix of four priorities as a basis.

Furthermore, the European Sectoral Social Dialogue Committee in Education (ESSDE) was launched in June 2010 by the European Trade Union Committee for Education (ETUCE) and the European Federation of Education Employers (EFEE). The committee adopted joint actions to influence EU policies and to improve the teaching, working and learning environment by

¹² <http://www.etuc.org/a/6078>

¹³ <http://www.etuc.org/a/8067>

¹⁴ <http://www.etuc.org/a/7076>

identifying and exchanging good practices. ESSDE separate working groups are dealing with issues such as the recruitment and retention of staff in a time of strict budgetary constraints, gender equality, teachers' mobility and improved higher education.

Other EU sectoral social dialogue committees are implementing joint actions to improve training, qualifications and skills within their sectors of responsibility. Examples in this regard include the textile sector (with the establishment of a EU sectoral skill council for the textile, clothing and leather sectors); the road transport sector (with a joint social partners project on training in the commercial road transport sector); tourism (the development of a European qualification and skills passport for the hospitality sector) and the metal sector (joint "ad hoc" working group on skills shortages).

These initiatives complement and at the same time reinforce the experience that social dialogue and collective bargaining play at national, regional and company level with respect to education and training issues. They include (but are not limited to): collective agreements in private and/or public sector including provisions on tools to identify and anticipate competence needs at company level; awareness-raising actions towards companies on the importance of identifying and anticipating competence needs to anticipate industrial change; mutual social partners funds for training programmes for companies and workers; trade union learning representatives that negotiate training programmes, the development of individual learning accounts, etc.. Finally, in most EU countries, social partners participate in tripartite bodies where they give advice on national policies on qualifications, skills, etc. In addition, they take a range of specific actions to better tailor education and training systems to labour market needs.

Part Two: ETUC's Demands and Action Programme

4. ETUC policy and demands on education and training and VET

ETUC has constantly placed lifelong learning, education and training at the heart of its agenda, not only by dealing with these policies directly but also by making the link with other relevant issues that are strongly related to an ambitious and effective lifelong learning agenda (i.e. restructuring, anticipation of change, demographic change, greening of the economy, etc.).

As has been seen, the EU has put in place several instruments for improving education and training at all levels, nevertheless the ETUC believes that the economic and social context in which these tools have been developed has been underestimated. There is a clear risk that EU policies and instruments in the area of LLL and VET will not meet the ambitious aims identified because there has been an insufficient analysis of the context and a lack of adequate resources. In some instances some EU policies also wrongly attribute to LLL the power to generate jobs, while for the ETUC, LLL and VET can contribute to job quality but not necessarily to job creation.

A different governance for macroeconomic policies is needed and the policies should aim to support economic growth. The ETUC therefore welcomed the employment package but at the same time asked for more ambitious resources and initiatives to boost job creation and the quality of jobs, also by enhancing qualifications and skills. ETUC also demands more binding measures for member states to fully meet education and employment objectives set out in the various EU instruments and initiatives. In particular ETUC demands concern incentives, resources and an enhanced partnership, not only at European but at all levels where social partners play a role in defining these policies.

- The ETUC's view is that lifelong learning should concern all education patterns: early childhood, compulsory school education, vocational education and training, higher education, research and innovation, adult learning including professional development and the training of workers/employees. The ETUC has constantly called for the EU and national member states to guarantee a high quality level of education and training, an emancipatory and high-level initial education and fair working conditions for teachers;
- Access to lifelong learning is still a major challenge in most of the EU member states. The ETUC has repeatedly called for lifelong to be/become a reality for all workers (especially with regards to the low-skilled workers or precarious workers) and for all citizens (the young and adults, men and women, without discrimination on grounds of disability, ethnicity, race or sexual orientation);
- There should be a balance between education and training as well as between education and work. We therefore need to encourage further investment in improving the permeability between compulsory and vocational education and training to higher education, and between education and the labour market. There should be a smooth transition from education into work as well as from work into education and back. Labour market training needs take place at a faster pace than those occurring in education and training systems, therefore a stronger link between cross-industry and education trade unions is needed;
- Given the challenges posed by the economic situation, further efforts are needed to combat unemployment and early school leaving, and in reducing the mismatch in skills as well as ensuring that the European workforce gets the best out of the EU tools put in place to become highly qualified;
- All formal, non-formal and informal learning institutions and providers need to receive further financial support to teach lifelong learning and to provide more courses for all free of charge
- Focused education and training strategies should be established and social dialogue should be supported to develop a transition strategy for green and white sectors, as well as for company and sector restructuring, notably due to the economic crisis. Training on the green economy and sustainable development as well on European Structural Funds and their potential to positively impact education, training and employability should be further deployed;
- Anticipation of change and company restructuring can be ensured in a sustainable manner only through adequate levels of education and training;
- High quality training should be seen and promoted as a key instrument for providing concrete possibilities for the unemployed to access the labour market. Furthermore, the combination of collectively-agreed training schemes with reduced working hours (the so-called kurtzarbeit in Germany) should be considered as one of the more/most successful measures implemented by social partners for buffering the effects of the crisis.

The social partners' role in shaping and influencing education and training policies should be respected and promoted at all levels. Collective bargaining should be also promoted. The Action Programme sets out ways in which these broad objectives can be met: measurable and

time-framed targets, follow-up procedures and an evaluation process. It calls for an active involvement of ETUC affiliates at all levels.

5. The ETUC Future Strategy on lifelong learning

In order to meet the above-mentioned challenges the ETUC needs to:

- a) Influence EU institutions in order to create a strong link and political coherence between employment, education and economic policies with a view to supporting growth, inclusion and job creation. More and better resources will be needed to strengthen education and training and structural funds and ESF funding can play an effective role;
- b) Monitor and contribute to the implementation of education and training policies. Trade union organizations must play an essential role in motivating employees with regard to the benefits of lifelong learning. Through collective bargaining or trade union training programmes at all levels, trade union organizations must contribute to increasing the awareness of workers and trade union delegates of the challenges posed by the EU 2020 and ET 2020 agenda;
- c) Work to safeguard, improve and better coordinate European education and training instruments and programmes and develop them further in the next EU funding period (2014-2020);
- d) Influence policy-making and institutions at the European level, notably in the light of EU policy issues and legislative processes at stake in the lifelong learning agenda (e.g. VET, recognition of non-formal and informal learning, mobility, the new lifelong learning programme, Erasmus for All, the modernization of the professional qualification directive, upcoming recommendations on NFIL etc.);
- e) Lobby the EU to adopt recommendations enabling lifelong learning for all and make sure that the new Erasmus for all gives incentives to continuous education for workers as well to the full involvement of social partners;
- f) The economic downturn should not lead to reduced investments in education and training. Public authorities have specific responsibilities for ensuring good quality training despite budgetary constraints. Employers also have their role to play in this regard. They should be doing more and better in terms of investing in the skills of all groups of workers and in providing an adequate number of training hours. Tax incentives can positively support these commitments.
- g) Improve the link between LLL and youth policies. Education and training should offer options for both employment and further study for young people;
- h) Re-evaluate and strengthen, within the context of the European Social Dialogue, the 'Framework of Actions for the Lifelong Development of Competencies and Qualifications' and activate the 'Framework Agreement on Inclusive Labour Markets';
- i) Support and coordinate European sectoral trade unions on the development of lifelong learning initiatives within the new context of sectoral social dialogue, sectoral/company level collective bargaining, European sector skills' councils, skills panorama and ESCO;

- j) Step up training on education and training matters and to fully incorporate them in other areas (i.e. restructuring,) in partnership with the ETUI and affiliated unions;
- k) Support national confederations with the introduction, implementation and evaluation of European common instruments, such as EQF, EQUAVET and ECVET, as well as tripartite/bipartite dialogue at national and local level;
- l) Take full advantage of the potential of its Lifelong Learning Working Group to strengthen a European trade union strategy on education and training;
- m) Develop a simple communication strategy for sharing information.

6. ETUC's Actions

There is a need to bridge the gap between the theoretical concept of EU common tools (EQF, ECVET, EQUAVET, etc.) and their application in regards to the reality of national education and training and qualification systems. As a starting point, the ETUC, with the support of the ETUI, will launch a pioneering training programme for trade unionists to make the most of EU tools and principles.

A new ETUC project will be developed between 2012 and 2013. It will focus on the implementation and relevance of the E&T EU agenda (or EU common tools for workers). While EU institutions and the Cedefop have substantially followed the reporting on policies and systems, more empirical evidence is needed from the perspective of the workers, trade unions and social partners on the barriers, challenges and bottlenecks they face. The ETUC will promote a new study to provide recommendations on the practical implementation of learning outcomes in European countries, their relevance for workers, how it is used for example in relation to curricula, assessment, standards, or validation.

Furthermore the ETUC will also promote an exchange of trade unions' views with regard to the dual learning systems and good practices that have been developed by trade unions to enhance quality of apprenticeships. The following qualitative elements for structuring a modern dual vocational training system will be taken into consideration from the outset: VET as a springboard for ongoing and further training, need to adapt to technical and economic changes, as well as processes of corporate organization developments; cooperation between learning institutions; definition of the legal status of trainees; cost-benefit analysis of in-company vocational training; involvement of social partners.

This project could be a first step towards a more general multiannual action, aimed also at mapping the involvement of trade unions in tripartite negotiations, and consultations regarding LLL policies at national and local level, the LLL in collective bargaining activities, and LLL bodies directly managed by trade unions.

The setting up of a network (within the LLL working group) of committed and experienced trade unionists that will work on the ETUC's behalf to defend trade union positions in the numerous EU consultative bodies.

A renovated lifelong learning section of the ETUC website, possibly with a space where ETUC affiliates can share information and experiences on trade unions' actions in the field of education and training will be considered in this regard.

The ETUC will continue to promote the sharing of trade union good practices at national and EU sectoral level through meetings or seminars about specific topics (collective bargaining on

LLL and skills, trade union involvement in training, etc..) that are of interest to member organizations. In particular, a strong emphasis will be placed on social dialogue and collective bargaining practices in this area;

7. ETUC's affiliates challenges

Influence policy-making at the national level, notably in the light of the EU policy issues at stake in the lifelong learning agenda.

Lobby to implement the European tools and the partnership principle in all the Member States and at sectoral and local level as well. Report regularly to the ETUC working groups about challenges and trends (especially for trade unions) in developing these tools, in order to enable the ETUC to lobby effectively at EU level in a way that also reflects workers' views and needs in the implementation of these tools;

Lobby to ensure a full implementation of all European financial instruments at national level, notably the ESF, and push the Member States and the other public authorities to provide their own resources to support education, training and better skills in the labour market.

Participate in peer learning activities and in the exchange of good practices on the implementation of the European tools, create a sense of ownership of the process and stimulate further activities.

Organize activities aimed at promoting EU common tools, including the Copenhagen process. Give adequate support for enhancing mutual recognition and competences.

Include lifelong learning in the collective bargaining agenda. Evidence shows that social partners' agreements have a positive effect on participation, and the number of hours spent, in continuing training.

Our affiliates' good practices in this field have achieved some useful results:

- a) Include into collective bargaining specific mechanisms that encourage the careers of workers upgrading their professional qualifications in order to make effective workers' rights to lifelong learning;
- b) Develop training through collective bargaining, with the aim of encouraging participation in educational processes, particularly in SMEs;
- c) Link the recognition of professional skills to improve wages and working conditions;
- d) Ensure, through collective bargaining, guidance for workers and develop training schedules in accordance with needs of companies and workers, with particular respect to disadvantaged groups;
- e) Secure adequate time requirements for learning phases through collective agreements and /or legislation. Ensure that training officers also have a time budget.

8. Implementation, reporting and evaluation of the Action Programme

In order to successfully meet the objectives that have been identified in the Lifelong learning Action Programme on lifelong learning equality, ETUC member organisations commit

themselves to promoting a sense of ownership, shared responsibilities and actions at all different levels.

As a first step, affiliated organizations will give adequate visibility to this Action Programme. It is therefore recommended that: the Action Programme is translated into national languages, that a copy of the translation is sent to the ETUC so that EU-wide visibility can be given through the ETUC's channels, and then disseminated and discussed with trade union representatives.

The ETUC secretariat will be responsible for leading some specific key activities for meeting the objectives of the Action Programme, having recourse to EU funding if necessary.

An evaluation of progress in achieving the Action Programme will be put forward on the eve of the ETUC Mid-Term Conference in 2013. The lifelong learning working group will have a strategic oversight of the implementation of the key actions identified.

The ETUC and its member organizations will make sufficient resources available so that the key actions of the Programme are accomplished.



ETUC Position

Time to overcome gender imbalance in corporate boards in the EU

adopted at the Executive Committee of 5-6 June 2012

The ETUC position

At the last Athens Congress the ETUC committed itself to place the gender dimension high on its agenda, by pursuing the objectives set in the Gender Mainstreaming Charter adopted at the Congress in Seville and by adopting adequate measures to tackle remaining gender inequalities in the labour market.

ETUC's fight to stand against women underrepresentation and discrimination in the labour market and in society has a long history. ETUC adopted several positions to enhance women's participation in decision-making structures and processes and an exhaustive summary of these is contained in the ETUC Resolution "Recommendations for improving gender balance in trade unions" adopted by the Executive Committee on 9 March 2011.

The resolution reaffirms that *"Equality between women and men is a founding principle of the European Union and a long standing commitment of the ETUC. A balanced participation by women and men in society's major political and economic decisions is a key element to developing real democracy and it has also proved to be an essential factor contributing to economic growth"*.

In 2005, the ETUC negotiated a framework of actions on gender equality in the context of the European Social Dialogue. In this instrument, we recognized, together with the employers, that the lack of women in decision-making positions was one of the four priorities¹ that the social partners had to tackle in order to advance gender equality at the work place.

In the final evaluation report of the Framework of Actions adopted in November 2009, we jointly affirmed that *"achieving an increase in the proportion of women in decision-making positions is an objective shared by social partners, who regard the promotion of women into senior and managerial positions as an investment for a more productive and stimulating working environment and for a better economic performance"*. In the same document is also stated that *"the underrepresentation of women in decision-making positions in economic and political domains was addressed as a concern by several of the contributions reported by the national social partners"*.

¹ The other three priorities are: addressing gender stereotypes, the gender pay gap and reconciliation of work, family and private life

The ETUC has also put in place different actions and recommendations to strengthen gender balance in collective bargaining teams. ETUC is strongly convinced that the involvement of women and men at all levels of collective bargaining as well as in workers' representation structures is a basic value of the trade union movement and it enables new perspectives to be integrated into the bargaining agenda, by drawing on female trade unionists' experiences, opinions, knowledge and skills.

In ETUC's response to the consultation on the Green Paper on an EU Framework for Corporate Governance we affirmed that *“voluntary approaches have not proven to be very successful in the past. Therefore, introducing binding measures should be considered if companies do not improve the gender balance on boards”*.

The issue of enhancing gender equality in company boards should therefore be considered in the light of mainstreaming ETUC policies with regard to gender and non-discrimination.

ETUC believes that gender equality and diversity in the boardroom of companies is a key democratic principle with positive economic side-effects. The principle of gender equality should be however been kept separate from that of diversity: women are neither a group nor a minority, but one of the two forms of human being and more than half of the world's population not to mention 45% of the European workforce. Therefore, the balanced participation of women and men in decision making bodies is not only merely a question of diversity, but an essential imperative of the fundamental principles of democracy and human rights, as enshrined in the EU Treaties and the Charter of Fundamental Rights.

Women's talents are currently being underutilized at decision-making levels, in particular at top level. Change is necessary in many instances, and especially in the corporate world to strengthen Europe's competitiveness, combat the current economic crisis and create a sustainable future in which all talents are used to the full and all voices are heard in decisions shaping Europe's future.

To date countless voluntary-based initiatives have been taken to create awareness and increase pressure on companies to improve women's access to the decision-making power in the corporate world. However, progress has been extremely slow as the most recent figures published by the European Commission and the Parliament illustrate. More action and binding measures are needed to reach gender balance in economic decision-making positions.

EU latest initiatives in this regard, have led to some European countries to start discussion or to adopt binding measures to ensure gender equality in company boards. Nevertheless, in order to ensure a consistent approach and the same level of women's representation throughout the member states the ETUC believes that a EU level instrument is needed.

In ETUC's view one of the most effective ways to ensure a better gender balance on boards is the introduction of binding measures, with clear targets, deadlines and sanctions. These measures provide a strong incentive to the corporate world to introduce targeted actions, not only in order to meet legal requirements, but furthermore to ensure the efficiency and sustainability of their decision-making structures.

In order to be consistent with previous statements in this field, the ETUC believes that the principle stated in the ETUC Action plan adopted at the Congress in Athens should apply to gender equality in company boards. This principle indicates that "*each gender should be represented between 40% and 60% in decision-making structures*". This quota should apply to publicly-listed and non-listed companies and to both executive and non executive board members.

In principle, the EU initiative should apply to all companies since equal opportunities should be ensured to every working women and men. At first larger companies, both listed and non listed, should be tackled by the EU while a transitory period could be established for medium-sized enterprises that have to set up a board according to national company law.

Attention should be given to the different national legal systems differentiating between one- and two-tier bodies of companies. As board members' terms might differ from country to country a sufficient transition period should be foreseen and the target should be reached by 2020. Noncompliance with quota requirements should be accompanied by a monitoring system and by sanctions that are consistent with national company law.

Quotas should, however, not disregard formal and substantive qualifications and not lead to indirect discrimination against women.

Quotas should not also be seen as a goal in itself or a permanent instrument. The EU should therefore regularly review the implementation of any measure adopted in this regard and consider the withdrawal of the quota at a certain moment once the target has been reached and permanently established in all member states.

The ETUC believes that effective, dissuasive and appropriate sanctions should be introduced for those companies not complying with legislation. Sanctions should comprise a multifaceted approach, starting with mild dissuasive measures (ie warnings, progressive monetary sanctions, etc.) towards harsher actions culminating in the forfeiture of the offices of elected members of the board in cases of non compliance.

Different steps could be foreseen and the Commission should take as a basis successful practices that already exist in countries where quotas and sanctions have been introduced (such as France, Belgium and Italy).

Next to sanctions, the EU initiative could also foresee incentives. For example, companies that meet the target and apply gender equality policies may be favoured in public procurement.

The ETUC is also convinced that public awareness on the social and economic advantages of an enhanced presence of women in decision making positions should continue to be promoted.

ETUC finally considers that policies addressing the current obstacles for women to reach top positions, such as measures to reconcile work, family and private life for both women and men, fighting gender stereotypes in education and in the labour market, and engaging men in the debate should also continue to be promoted and adequate measures should be put in place.

Social partners have a clear responsibility to ensure that the company's overall working environment supports a more balanced participation of women and men in decision making.

A monitoring and measuring system at EU and country level should be established, involving social partners and tracking progress and signaling effective approaches for further dissemination. Regular data collection, reporting and publication of results in order to increase pressure on boards to make changes should be undertaken.

ETUC further considerations on the need to re-boost the EU gender equality agenda

In ETUC's view the issue of women's underrepresentation in economic decision-making should be addressed within the wider framework of tackling discriminations between women and men in the labour market and society.

The low rate of representation of women on boards can be explained by persistent unequal access to economic, social and cultural resources between women and men, by inequalities in the share of paid and unpaid work, by the persistent undervaluation of women's work.

Such factors are major reasons for women's attainment of fewer high posts than men despite representing the majority of university graduates. In this perspective, in addition to strategies and legislation concerning gender equality in employment, care leave measures and services need to be improved for women and men.

The ETUC therefore calls upon the EU to promote policy initiatives in order to fight effectively against a number of other discriminations that women still experience in the labour market.

In replying to the consultation on the follow-up strategy to the Roadmap for equality between women and men 2006-2010 the ETUC made concrete proposals to the Commission to tackle gender inequalities. The ETUC strongly believes that these recommendations are still valid and should be urgently addressed:

- A reinforced commitment to gender equality, including new legislative proposals to tackle the gender pay gap (with quantitative targets, sanctions and incentives for the social partners to actively carry out pay audits and analysis of the pay differentials), the horizontal and vertical professional segregation of women and precarious forms of work;
- A combination of gender mainstreaming with specific actions, to begin with all measures and policies regarding the economic and financial crisis. This includes for instance measures to tackle the gender impact of the economic and financial crisis in recovery packages, training and retraining programmes for women, including investing (also) in female dominated sectors and public services;
- An EU Directive to introduce a minimum right to paternity leave and carers' leave;
- New indicators to measure progress on care services;
- Comparative research on part-time work and proposals on how to make part time work a genuine quality option for men and women;
- Full respect, recognition and support of the role and autonomy of social partners at all levels in promoting equality between men and women through social dialogue and collective bargaining;
- Measures to prevent and combat any form of harassment and violence against women;
- Obligations with guidelines to implement gender impact assessments in all legislative proposals that are put forward by all EU Institutions.

Context

One of the issues mostly debated at European level in recent times in the area of gender equality has been the under-representation of women in decision-making positions, and more specifically in company boards.

Despite the severe economic crisis affecting Europe, women's presence in the labour market have been slowly rising, but the situation between countries differs. Europe is far from attaining EU2020 target of 75% of women and men in employment and women continue to be seriously underrepresented in economic decision making positions, especially in senior management functions and in corporate boardrooms.

According to the most recent EU study, in 2012 women made up 13,7% of the supervisory boards of the largest publicly-listed companies. This figure has been increasing by 5 percentage points since 2003. Across the European Union, one in three large companies had no women at all on its board in 2010. And this is despite the fact that more women are earning college degrees than men (60% of new university graduates in Europe are female)².

Women are almost completely absent from leadership positions as CEO's and Chairpersons: in the EU only 3% of the presidents of boards are women with no substantial increase in the last ten years³.

The figures vary by country: more than 25% female board members in Sweden, Latvia and Finland while less than 10% in Cyprus, Malta, Italy, Luxembourg, Portugal, Estonia, Ireland and Hungary. Gender balance is more encouraging among employees' board level representatives, where women account between 20%-30%⁴.

Findings are particularly alarming also when looking at companies' attitude to investment in females workers careers development. According to an analysis of gender representation in Executive/Management roles across Europe issued by Mercer, 71% of 5,321 companies across the EU do not have a clearly defined strategy or philosophy for the development of women into leadership roles. The same study also recognizes that a more diverse workforce reduces turnover and absenteeism and increase innovation and creativity.

Unfortunately, data on board composition broken down by company size are not available, however national studies suggest that the total share of women tends to be slightly lower in smaller companies

Some EU countries have so far introduced legislative measures with quotas to increase the number of women in business leadership. To date, quota legislation exists in the following European countries: Belgium, France, Iceland, Italy, Norway, Spain and the Netherlands.

Quotas range from 30% to 40%, they are generally binding for both public owned and publicly-listed companies and in few cases sanctions are foreseen. In most of the countries where legislation was introduced, a transition period is set.

² Women in economic decision-making in the EU: Progress Report, European Commission, 2012

³ *Equality in decision making: diverse approaches for gender balanced corporate boards*, Background note for the EC Conference Equality between women and men, 19-20 September 2011", Mirella Visser, 2011

⁴ See: European Commission database on women in company boards: http://ec.europa.eu/justice/gender-equality/gender-decision-making/database/business-finance/quoted-companies/index_en.htm and EuropeanPWN BoardWomen Monitor http://www.europeanpwn.net/index.php?article_id=8

Other member states implement a voluntary approach to promote gender balance in boards. These voluntary initiatives range from effective corporate governance codes, leading to transparency, accountability and peer pressure, an active role of the government (in the form of target-setting for state-owned companies' boards), a constructive role of the media and global policies in favour of gender equality. However, in the majority of Member states (where the underrepresentation of women in board is also low), the debate is completely absent and any initiative addressing the issue of gender equality in company boards has been taken.

Irrespective of the solutions found in individual Member States, today one idea is gaining ground in Europe: there is a business case for gender equality. Studies show positive correlations between diversity in boards and company performance.

For instance, a McKinsey study of large European companies (also quoted by various EU reports on this matter) indicates that the best companies in terms of work environment, innovation, accountability and profits were those with a higher proportion of women on boards⁵. According to their latest report, companies with a gender balanced composition can achieve an operational profit which is 56% higher than that of male only companies. These findings are supported by a large number of EU, national and business reports⁶.

The EU response

Equality in decision-making is one of the priorities addressed by the EU. The most recent documents adopted to tackle this long-standing challenge are the Women's Charter and the European Commission's Strategy for Equality between Women and Men 2010-2015⁷. In both documents, the European Commission has reaffirmed its commitment to working to increase gender balance in decision-making positions. In particular, the Commission commits to consider targeted initiatives to improve the situation.

The European Commission has also tried to stimulate the corporate sector to voluntarily take action to achieve more gender-balanced boards. To this end, in March 2011, Commissioner Reding met chief executives and chairs of boards of publicly-listed companies to discuss the under-representation of women on corporate boards. She challenged all publicly-listed companies in Europe to sign up to the "Women on the Board Pledge for Europe" and voluntarily commit to increasing women's participation on corporate boards to 30% by 2015 and to 40% by 2020. The issue of better gender balance in boards was also addressed in the Green paper on the EU corporate governance framework in 2011.

⁵ A.O. "Women Matter" by McKinsey 2010; "The bottom line: connecting corporate performance and gender diversity", by Catalyst, 2004.

⁶ "Women to the top! Female leadership and Firm profitability", 2007, by EVA (www.eva.fi)

⁷ See EC webpage: http://ec.europa.eu/justice/gender-equality/index_en.htm

In March 2012, the European Commission has issued a progress report on the impact of the voluntary pledge and the measures taken by companies. A public consultation was launched to identify appropriate measures for addressing the persistent lack of gender diversity in boardrooms of listed companies in Europe. The Commission is seeking views on possible action at EU level, including legislative measures, to redress the gender imbalance on company boards. Following this input, the Commission will take a decision on further action later this year.

Commission's initiative has been supported by the European Parliament through the adoption of a Report on women and business leadership in 2011 and by the latest Report on the equality between men and women in March 2012⁸. MEPs welcomed Commission's initiative and urged the Commission to "*propose legislation including quotas by 2012 for increasing female representation in corporate management bodies of enterprises to 30% by 2015 and to 40% by 2020*", if voluntary measures do not manage to increase the proportion of women.

Another indication of EU willingness to address gender balance in company boards is found in Commission's work programme for 2012 where it is stated that "*Following the gender equality strategy a Recommendation would aim to improve gender balance in company boards. As well as being a fundamental right, gender equality is crucial for the EU's growth and competitiveness*". On this basis a public consultation was launched by the Commission in March 2012 and the ETUC replied in May.

⁸ See EP Report on women and business leadership :
<http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2011-0210&language=EN>
and the EP Report on the equality between men and women 2011
<http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2012-0041&language=EN>



ETUC position on the Enforcement Directive of the Posting of Workers Directive

Adopted at the Executive Committee on 5-6 June 2012

Further to the ETUC declaration on the Commission proposals for a Monti II Regulation and Enforcement Directive of the Posting of Workers Directive adopted on 19 April, this position paper sets out the ETUC's key demands regarding the Enforcement Directive. It should, however, be noted that since the Enforcement Directive does not address the core provisions of the Posting of Workers Directive, the ETUC's demand for a revision of the Directive remains.

Legal basis

In order to ensure that the Enforcement Directive is not a pure internal market instrument based solely on Art. 53 (1) and 62 TFEU, a social dimension must be included at least by creating a dual legal basis through the addition of Art. 153 TFEU (social policy).

Scope

The Enforcement Directive should ensure adequate protection of workers regardless of their status and also in case of change of status. The relationship with the Rome I Regulation, which lays down the rules for the choice of the applicable law, therefore needs clarification. This could be achieved by introducing a presumption that the habitual place of work within the meaning of Rome I is in the host Member State unless it is proved otherwise.

Furthermore, the applicable situation to temporary agency workers in case of posting needs to be clarified. The equal treatment principle provided for by the Temporary Agency Work Directive must also be respected in situations of posting. The Enforcement Directive should ensure that it applies to temporary agency workers unless they are guaranteed more favorable treatment regarding their terms and conditions of employment in another instrument.

Criteria determining the notion of posting

An indicative list of criteria for establishing whether an undertaking is genuine and whether a posted worker is temporarily carrying out his or her work in another Member State, as proposed by the Commission, gives Member States the possibility to pick and choose the least cumbersome criteria. This creates legal insecurity and makes the Enforcement Directive inefficient. The list of criteria should be binding in every Member State. It should also include quantitative elements and be non-exhaustive, i.e. Member States must as a minimum transpose the listed criteria to be able to make an overall assessment of the relevant elements. Furthermore, the Enforcement Directive should clarify when Member States are supposed to examine if the criteria are fulfilled.

To reduce the possibility of circumvention of the Posting of Workers Directive and the

Enforcement Directive through false self-employment, criteria based on the ILO Recommendation No. 198 on the employment relationship should be added.

Preventing abuse and circumvention

The Enforcement Directive does not propose effective and dissuasive measures for combatting fraud or preventing abuse, misuse or circumvention. Therefore, it is essential to add provisions preventing successive assignments to the same post and so-called letter-box companies.

Moreover, workers whose employing company in the alleged Member State of establishment is in fact a letter-box company must benefit from the Treaty provisions on free movement of workers and equal treatment. The Enforcement Directive should also ensure that a posted worker cannot be sent to replace another posted worker in order to perform a similar task, except for objective reasons such as illness or termination of the contract by the posted worker.

Liability

The introduction of a joint and several liability mechanism is indispensable in protecting workers from abuses. Otherwise, a contractor could easily evade national regulations or collectively agreed labour standards and working conditions by creating extremely complex networks of subcontractors.

The Commission's proposal, however, is limited to the construction sector and direct subcontractor situations. It is also undermined by the stipulation that a contractor that has taken due diligence cannot be held liable.

Joint and several liability must apply to any sector of activity. The Enforcement Directive should also introduce a mandatory chain liability, which stipulates that the main contractor(s) is liable for the compliance of all subcontractors, with the applicable terms and conditions of employment, and social security contributions.

The concept of "due diligence" should be deleted. There is no definition at the European level and it would therefore vary from one Member State to the other. It has been indicated that in order to escape liability, it might be sufficient for the contractor to check the identity of the subcontractor and their history.

Control and monitoring

The onus should not be on the Member State of establishment to carry out the control and monitoring, but the host country in which the posted worker is actually working. Since effective cooperation between Member States does not seem to be the rule in practice, it is not acceptable that host Member States can only act at the request of the Member State of establishment.

National control measures should be mandatory and not limited to those listed in the Enforcement Directive. Governments must be free to take other measures as well. It should also be made clear that the article on national control measures applies to the host Member State. In addition, the Enforcement Directive should impose an obligation on the service provider to declare the use of posted workers prior to the posting.

With the purpose of improving the enforcement of the Posting of Workers Directive, public authorities, together with trade unions should have access to documents such as the employment contract. The translation of these documents cannot be limited to those that are “not excessively long and standardised”. Workers and service providers must have access to information in their own languages.

The ETUC welcomes the obligation to designate a contact person, but this person should be a representative of the employer, have a legal capacity and their role should not be restricted to negotiations. The contact person should reside in the host Member State during the entire period of the service provision.

Enforcement

It is important that Member States are able to ensure effective labour inspection. Therefore, the Directive should not create a right for employers to challenge enforcement action simply because a risk assessment was not carried out.

The Enforcement Directive provides trade unions with the possibility of engaging in judicial or administrative proceedings on behalf or in support of a posted worker. This possibility should also apply to the enforcement of the obligations under the Posting of Workers Directive. In order to ensure coherence with collective agreements and all national legal systems, the chapter on enforcement should make it possible for a trade union to act on behalf or in support of a posted worker without the approval of the worker.

The possibility for posted workers to lodge complaints should not be restricted to outstanding remuneration or refund of excessive costs. The posted worker should also be able to claim any other entitlement due to him/her. A provision protecting posted workers when taking judicial and administrative proceedings should be included.

Sanctions should be effective and dissuasive not least concerning letter-box companies in order to prevent social dumping and the abuse of posted workers. To avoid weakening existing national legislation, a clause of non-regression is necessary as well as the granting of the right to Member States to maintain or improve the already existing control and surveillance mechanisms.



Putting just transition into action in Europe and globally ETUC position towards Qatar COP18

ETUC position adopted by the Executive Committee at its meeting on 5-6 June 2012

Following the outcome of the 17th set of international climate negotiations held in December 2011 in Durban (COP17), global climate negotiators are currently working on the elements of a future global climate agreement due to be concluded by 2015, and implemented by 2020.

The negotiations in Durban managed to save the UN climate process, paving the way for a final round of discussions on three key issues for the union movement:

- a. a second commitment period for the Kyoto Protocol which expires in December 2012;
- b. the 'Durban Platform', which consists of 2 elements. Firstly a work plan on enhanced ambition and, secondly, the negotiation of a new legally binding agreement applicable to all and to be finalised by 2015 and in force by 2020; and
- c. further work on key components of the Cancun Agreements (2010) on: global emission reductions to keep the global average temperature rise below 2°C; a Just Transition within response measures; market-based mechanisms to deliver CO₂ reductions; mobilising scaled-up funds for developing countries to take greater and effective action; and establishing institutions to realise these objectives.

For the European Trade Union Confederation (ETUC), while we welcomed the Durban platform and acknowledge that the EU showed itself to be responsible and unified, every delay in reaching international consensus is increasing the eventual cost (economically, socially and environmentally) and reducing the chance of keeping global temperatures within a safe range.

Unlike other industrialised parts of the world (including Canada which, deplorably, withdrew from the Kyoto Protocol immediately after the negotiations ended), Europe assumed its responsibilities in Durban, by agreeing to continue to reduce its CO₂ emissions under a second commitment period of the Kyoto Protocol, although the protocol will only concern 14% of world's emissions. Nonetheless, on 1 May 2012, the EU proposed to take on an 8 year commitment period – in line with the Europe 2020 strategy – to extend its Kyoto Protocol obligations to 2020 with a commitment of -20% greenhouse gas emissions (based on 1990 levels). The ETUC underscores the fact that this commitment, which essentially reflects business as usual as a result of the economic crisis, is not ambitious enough.

ETUC concern about the choice of Qatar to host COP18

Migrant workers, who make up a 94% majority of the Qatari workforce, lack basic labour and human rights, are systematically exploited, often work in health threatening conditions, and may be expelled for forming a trade union. For example, Qatar has refused to ratify ILO Convention 87: Freedom of Association and Protection of the Right to Organise Convention,

1948. Qatar is also the world's largest per capita emitter and has been a barrier in climate negotiations.

As in all their external relations, the ETUC demands that the EU and member states raise these concerns with the Qatari hosts and ensure that the importance of human rights (including workers' rights), Just Transition and Decent Work are central in their dialogue with the COP 18 organising team.

A public commitment from Qatar to Just Transition and Decent Work, by signing the relevant ILO conventions and ensuring an active participation of civil society in the COP18, is needed to build trust in the union and social movements on Qatar's chairing of the summit.

International Demands: a Just Transition needs a binding and ambitious framework agreement

The ETUC remains firmly committed to the creation of a global, fair, legally binding and ambitious agreement under the United Nations Framework Convention on Climate Change (UNFCCC). In line with the Intergovernmental Panel on Climate Change (IPCC) recommendations, the ETUC supports greenhouse gas emission reductions for developed countries (including the EU) of at least -25 to -40% based on 1990 levels by 2020, and -80 to -95% by 2050 to avoid an increase in global temperature of more than 2°C by 2100. The final UN agreement must include provisions for a "Just transition of the workforce, and the creation of decent work and quality jobs" that featured in the UN decisions in Cancun (2010) and Durban (2011). This should remain the focus of negotiations within the 'Durban Platform'.

Fundamentally, neither workers nor the environment can wait until 2015 for concrete action to reduce global greenhouse gas emissions and ensure the policies and measures needed to anticipate and manage the consequent changes in the labour market and societies. Therefore, the ETUC demands a mandate for the International Labour Organisation to start operationalising and implementing the commitment to Just Transition and Decent Work included in the Cancun agreement (2010) and reiterated in Durban.

The principle of 'common but differentiated responsibilities' must take into account historical emissions as well as changing global emissions. The ETUC supports the EU's insistence on clear targets from the emerging countries to cut their emissions in-line with IPCC recommendations.

The work plan on enhanced ambition must address additional mitigation efforts both before and after 2020.

Any new market mechanisms, based on Joint Implementation or the Clean Development Mechanism, must deliver genuine benefits in terms of sustainable development, both for the environment and for the populations and workers in the host countries. The ETUC accordingly reiterates its position to the effect that flexible mechanisms cannot constitute anything more than a complementary instrument alongside local measures to deliver on the global emission reduction pledges. The ETUC therefore recommends that future market mechanisms foresee that projects should be systematically subjected to a procedure of approval by the national public authorities and that the list of evaluation criteria be set at the EU level in order to ensure a level playing field across Europe. The list of criteria should include:

- d. the project promoter's pledge to respect the principles of the OECD's guidelines for multinationals and ILO conventions.
- e. Social sustainability, covering employment (number of jobs created, skills development, quality of employment), equity and access to essential services such as energy services.
- f. The involvement of the trade union organisations in both the host and sending countries in the projects approval procedure.

Following the formal creation of the Green Climate Fund, initiated in Copenhagen and structured in Durban, the ETUC calls on the EU to ensure that money is made available for this fund for 2013-2020 to reach \$100 billion annually as from 2020. Europe must commit funds for this period, a third of the total amount needed. This must be additional to EU member states responsibilities to provide 0.7% GDP in overseas development aid to fight poverty, and not substitute this earlier commitment.

Putting Just Transition into practice in Europe

The ETUC has consistently called for a Just Transition Roadmap to accompany the EU's climate and energy goals and strategies. On 19 April 2012, the Commission published its Communication 'Towards a Job Rich Recovery' (COM(2012)173), which includes a proposal for a set of key employment actions for the Green Economy.

The ETUC welcomes the initiative but is disappointed by the absence of clear commitments and actions to ensure the socially responsible management and anticipation of change stemming from climate and energy policy and the effects of climate change and resource use on our economies. The Communication is extremely vague in this respect, has little ambition, and fails to reflect the negative impact of the economic crisis on the carbon price and consequent investment and revenue.

The Communication is weak on the importance of adaptation, which will require investment in public services such as water management, coastal protection, healthcare, urban planning and nature conservation, and has the potential to create employment. More focus on adaptation is urgently needed as the on-going economic crisis undermines Europe's preparedness for the consequences of climate change.

Building on the ETUC response to the Green Paper on anticipation and management of change (ETUC Resolution March 2012) and the ETUC's general response to the Employment Package (ETUC Resolution June 2012), and in order to build a European Just Transition Roadmap, the ETUC believes that 5 elements must be used as foundations:

g. Participation

The scale of changes necessary to reach a 80-95% reduction in greenhouse gas emissions by 2050 demands strong engagement from all parts of European society. Social dialogue, negotiation and participation are the fundamental values and tools which underpin and reconcile the promotion of social cohesion, quality employment and job creation and increased innovation and competitiveness in European economies. It is only through consistent and stronger worker participation that change can be managed in a socially acceptable manner, trust is nurtured and anticipation policies can develop.

The Commission's proposed actions are very limited in this respect, the ETUC calls for:

- A legal framework in Europe on the anticipation and management of change (ETUC Resolution, March 2012)
- Follow-up to the 1st high level social dialogue meeting on employment and climate (held on 13 May 2011), bringing together all relevant sections of the Commission
- Equivalent tripartite bodies at national level in all member states
- Sectoral roadmaps in priority areas such as energy supply, energy intensive industries, road transport, construction and domestic energy efficiency, developed in conjunction with the sectoral social partners charting the route to 2050 objectives, with interim targets
- Worker participation in EU R&D activities (e.g. board membership in European Technology Platforms, R&D PPPs, etc.)
- Extension of information and consultation rights to worker representatives to ensure rights related to environmental, sustainable mobility, energy and resource use in their workplaces

h. Job creation and maintenance

As is clear from the current employment situation, Europe urgently needs to create significant numbers of new jobs in sustainable companies and sectors. Green and decent jobs can be created through domestic investments in (new) low-carbon technologies, in R&D and innovation, and technology transfer. Together with the impact of austerity measures, the low price for CO₂ (currently 8€/CO₂T) will delay and complicate the investment needed to support the transformation of industries, promote infrastructure modernisation, and, consequently, bring about the transition to a low-carbon economy. For the ETUC, all jobs that contribute to environmentally sustainable development are green, therefore we welcome the broad definition of Green Jobs adopted by the Commission and Employment and Social Affairs Council (EPSCO) and the Commission's Communication. This spans all sectors and industries covering all workers; not only jobs in new emerging sectors, such as renewable energy, waste management and environmental protection services, but also the transformation and creation of jobs in existing sectors as they become "greener". For the ETUC, it is the quality as well as the quantity of jobs that is crucial – jobs must be at least in line with ILO standards on decent work. A roadmap for Just Transition is therefore linked to demand-side measures such as:

- European intervention is urgently needed to ensure a strong carbon price signal (e.g. using set-aside mechanisms). Alongside the carbon market, carbon taxation should be used as a means of regulating the price signal which should not be left to the market alone, subject to conditions notably on social justice.
- The risk of carbon leakage from Europe will increase if Europe stagnates further, which is one of the reasons why the ETUC believes it is essential to proceed without delay to reform the Emissions Trading Scheme (ETS) (including border adjustment measures as a last resort), and tackle unfair trade practices.
- A strong and coherent European industrial policy agenda for all sectors, with a strong social dimension including worker involvement. Competitiveness proofing should not be at the expense of social or environmental progress.

- Adoption of the draft Energy Efficiency Directive ensuring a high-ambition directive, guaranteeing at least 20% increase in energy efficiency and saving in Europe by 2020, with national and European binding targets and mandatory energy auditing. Although it is not as ambitious as desired, the ETUC calls for political support for the Commission's original proposal on an annual 3% binding renovation rate for public building stock.
- Promotion of closed loop manufacturing and a circular economy, through revision of the Eco-Design Directive to include resource efficiency criteria and better implementation and enforcement of European waste legislation
- An investment agenda is urgently needed to create jobs in the short term throughout the EU's regions and green the economy ensuring competitiveness in the longer term, through the promotion of the transformation and decarbonisation of energy and transport infrastructures, and energy independence.

Ensuring the greening of training, education and skills

Government-led, active education/training and skills strategies are fundamental in the transition to a low-carbon, resource-efficient economy, as recognised by the Commission's proposals. Equal access to continuing education and training is essential to respond to citizens' changing circumstances and aspirations on the one hand and the needs of the labour market on the other. The ETUC considers that all workers should have equal access to education and training at all levels, regardless of their age, gender, employment status, or nationality, and particularly groups with low participation, such as the low-skilled, older workers and workers on temporary or part-time contracts, so that they are able to acquire, update and develop their knowledge, skills and competences throughout their lifetime (e.g. through individual training plans and learning accounts). Therefore the ETUC calls for:

- An individual European worker right to training
- The promotion of sectoral training programmes and training accounts, closely involving the social partners, and common training modules related to green skills, plus the better recognition of non-formal skills and measures to ensure the transfer of collective skills
- An effective policy on vocational education and training, and public education policy demands appropriate funding. The structural funds while important but not sufficient, and the role of the European Social Fund should be guaranteed and increased.

Trade union rights

Respect for labour rights and other human rights is essential to ensure a Just Transition within Europe and globally. Therefore, the Commission must ensure that democratic decision-making and respect for human and labour rights are guaranteed in order to ensure the fair representation of workers' and communities' interests at the national level.

Social protection

Public policy must also provide a safety net through active labour market policies, strong social protection and support measures. A European restructuring framework must include support mechanisms for workers who fall victim to economic change. The ETUC fully supports the call for a social protection floor, to be addressed at the International Labour Conference (June 2012).

The ETUC supports increased unilateral ambition in reducing greenhouse gas emissions in Europe, if supported by a credible social agenda and the necessary funding to assist those sectors and regions which would experience a negative impact on employment in the absence of other large countries moving forward. The ETUC will continue to work with the ITUC and particular affiliated unions in other large countries such as Brazil, Canada, India, Russia, the US and China, to ensure credible commitments of these and other large countries (emitters).



Employment Package: the ETUC's response to the European Commission's Communication *Towards a job-rich recovery*

Adopted at the Executive Committee on 5-6 June 2012

Introduction

The Employment Package¹, published on 18 April 2012, is the European Commission's response to the persistently high level of unemployment in Europe. It sets out a medium-term agenda for action, by the European Union and the Member States, to support a 'job-rich recovery' and reach the Europe 2020 Strategy goals. The Commission is right to focus on this daunting challenge and appears to be starting to heed the incontestable evidence of steadily rising unemployment figures and the weak economic outlook. The following ETUC comments are predominantly focused on the *Towards a job-rich recovery* Communication ('the Communication').

The ETUC recognizes a number of positive developments reflected in the Employment Package. In particular, we welcome the recognition that the new EU economic governance needs to be coordinated with employment and social policy and that the social partners must be more closely involved in this process. We also support the attention given to the following issues: the need to reinforce social dialogue within the EU governance; encouraging labour demand; addressing chronic youth unemployment; tackling labour market segmentation; identifying sectors with a potential for job-creation (green economy, health, ICT); investing in workers and skills; and renewing efforts to remove obstacles to the free movement of workers.

With unemployment in the eurozone reaching 11% and over 10% in the rest of the European Union (affecting over 25 million people), halting and reversing this devastating employment crisis is of the highest priority for the ETUC. The Employment Package represents a step in the right direction, but the ETUC is concerned that if the EU collectively continues the policy of austerity, many of the package's more positive proposals will remain only that. While the Commission is right to emphasise that appropriate macroeconomic, industrial and innovation policies are important for employment growth, it is not proposing any Investment plan, nor is it taking into consideration the impact of trade policy. The ETUC insists on the need for coherence between employment, investment and external trade policies. Existing accompanying measures such as the Globalisation Adjustment Fund are not enough to mitigate the negative effects of Free Trade Agreements on employment in certain sectors. Without a shift in the EU's policy orientation, the ETUC questions the ability to deliver the desired job-rich recovery. Labour market policies will not compensate for macroeconomic policy mistakes and the Employment Package will not operate in a vacuum nor, on its own, create the necessary conditions to foster job creation.

¹ The Employment Package consists of the *Towards a job-rich recovery* Communication accompanied by nine Staff Working Documents, http://ec.europa.eu/commission_2010-2014/andor/headlines/news/2012/04/20120418_en.htm

Austerity is having a negative impact on employment both in the public and private sectors. It is increasing inequalities still further and escalating poverty. Eighty percent of Europeans believe that poverty has increased in their country over the past year and only 14% are hopeful of seeing an improvement in their household's financial circumstances in the coming year.² Ultimately, austerity is jeopardising any potential recovery. The ETUC has consistently argued that there are alternatives so we repeat our call for: a temporary freeze on new fiscal austerity in 2012 (and linked to this a moratorium on public sector job cuts to protect employment in the EU); a European Investment Plan focusing on structural investments and supported by new sources of finance including a financial transactions tax and Eurobonds; and that the European Central Bank should act as a lender of last resort³.

Although the Employment Package presents some important positive policy developments, the ETUC regrets its disproportionate focus on supply-side measures. Increased labour market flexibility through employment deregulation remains the primary objective of proposed labour market reforms. It is also important to note that increasing labour supply at a time when there is an excess with such high levels of unemployment, will result in even higher unemployment in the short term.

Supporting job creation

Encouraging labour demand

The Commission is advancing some suggestions aimed at stimulating labour demand. The ETUC agrees that more efforts need to be channelled into making labour markets more inclusive and that specific measures are required to target vulnerable groups. In this context, the Communication pinpoints the use of hiring subsidies as a means of cushioning the unemployment effects of the economic crisis. The ETUC is concerned that this should not be promoted as or mistaken for an appropriate general policy for creating sustainable and quality jobs. Policy makers should avoid providing the wrong incentives which could encourage employers to lower productivity, training and pay so as to ensure eligibility for such schemes. The negative 'revolving door' effects of such subsidies, whereby workers are fired only to be rehired to take advantage of a subsidy, should also be taken into consideration.

Whilst acknowledging the EU's limited competence in the field of taxation, the ETUC agrees that tax policy has a role to play in supporting job creation and believes that the focus should be on shifting tax burdens from labour to capital. We note the progress on the Common Consolidated Corporate Tax Base but in the absence of a minimum EU common corporate tax rate, the downward trend of corporate tax fosters tax competition and negative job relocation. Whilst ETUC endorses an approach which would shift taxes towards property and properly monitor redistributive effects, a shift towards consumption taxes would be counterproductive, ignoring the regressive impact of such taxes on income distribution. Similarly, the suggestion that employer social security contributions should be reduced is flawed and unbalanced, failing to take account of the impact this could have in weakening the revenue pillar of social security systems. Member States should instead be encouraged to strengthen these systems which constitute a fundamental aspect of the European social model and are the automatic stabilizers which proved effective in the early stages of the crisis.

² Sixth Flash Eurobarometer, http://ec.europa.eu/public_opinion/flash/fl_338_en.pdf

³ ETUC Resolution - Investing for growth and jobs, ETUC reaction to the Annual Growth Survey 2012, 6-7 March 2012, <http://www.etuc.org/a/9809>

The ETUC has previously called for increased efforts to tackle the causes of undeclared and informal work and welcomes the attention given to this issue, including the proposal to launch a consultation on establishing an EU-level platform between labour inspectorates and other enforcement bodies. An EU-level network of senior labour inspectors (SLIC) already exists; the consultation should therefore address whether there is a need for a new platform rather than improving the use of the SLIC network, with a formal structure for involving the social partners.

Additionally, the ETUC believes that in the context of a developing European labour market, a broader outlook is required encompassing the protection of workers, compliance with labour law and collective agreements and, within that framework, focusing on the most vulnerable workers such as migrants, the young and other workers in precarious employment. In all respects, labour inspectorates must be well resourced, particularly in times of crisis and the corresponding increase in their workload. In breach of ILO Convention 81 on labour inspectors, there is already a shortage of labour inspectors in a significant number of Member States and in some countries austerity measures have led to further cuts in their numbers.

Wages and job creation

Wage-setting: the ETUC welcomes the fact that by referring to *real* wage growth (and not just wage or nominal wage growth) in line with productivity developments, the Communication implicitly rejects the wage norm that the Competitiveness Pact adheres to. We also welcome the recognition of the need to boost wage growth where wages have “significantly lagged behind” such developments. However, the ETUC rejects the Commission approach whereby wages are seen as an instrument of competitive adjustment. We stress, instead, that wages and wage formation systems have a wider role to play and different objectives to pursue including:

- providing security by not giving employers the right to cut (nominal) wages;
- avoiding deflationary trends, implying that nominal wage cuts and freezes are to be avoided;
- working as an engine for demand and growth through real wage increases and a fair distribution of income between capital and labour;
- promoting the modernization of the economy: robust, rather than flexible, wage setting mechanisms are a powerful incentive for employers to seek solutions based on innovation and modernization instead of falling back on a simplistic and unsustainable strategy of wage cuts.

The fact that wages fulfill differing objectives implies that the role of autonomous social dialogue and the support of this dialogue through systems of coordinated bargaining are of crucial importance. The ETUC attaches the utmost importance to the European Treaty principles stipulating that the EU must strictly respect the national systems of industrial relations and has no competence regarding wages.

Growing in-work poverty is a phenomenon that must urgently be remedied. The ETUC maintains that a decent wage, coupled with decent working conditions, allowing people to live and work in dignity, is the most effective ‘incentive’ to taking up remunerative work. Whilst appropriately set minimum wages can help to prevent in-work poverty, we reject the implication in the Communication that a minimum wage equates to a decent wage. For the ETUC, a *decent* wage rather than a minimum wage should be the measure for ‘ensuring decent job quality’. Moreover, the Commission’s view on sufficiently ‘adjustable’ and ‘differentiated’ minimum wages floors is unclear and could be interpreted in a way which undermines a key principle of a minimum wage: i.e. to limit market competition which forces workers to

undercut each other by installing a wage floor. The ETUC will not support the downwards adjustment of minimum wages in times of crisis when a stringent wage floor is more necessary than ever, as is happening in Greece for example.

Job creation potential in key sectors

Green economy: the ETUC has consistently promoted the transition to an energy and resource-efficient economy and the development of green jobs as response to the environmental challenge and as a key aspect of an alternative agenda to austerity in securing a sustainable economic recovery. The Employment Package rightly raises the issue of the employment potential in addressing climate change and we welcome its broad definition of ‘green jobs’ used. For the ETUC, the move to an energy and resource efficient economy must guarantee a Just Transition and we regret the Commission’s failure to address this crucial dimension. We stress the need for a high level social dialogue on climate and employment. More detailed comments are set out in the ETUC Resolution on Qatar COP18⁴.

Health and social care: the Communication provides a good description of the challenges facing these sectors which will need to be addressed if we are to harness their job creation potential and ensure that this results in providing quality employment. The ETUC stresses that any policy action in this area must start with the basic principle that healthcare and social services are services of general interest (public services). Citizens have the right to expect that they are of high quality, affordable and universally available. Related to this, the Commission’s failure to acknowledge the importance of the public financing aspects of these sectors and the need for public investment in the service quality to boost quality jobs and improve employment in the sector, is a major concern.

The ETUC emphasizes that the focus must be on the creation of quality jobs. The social partners at all levels have an essential role to play in developing the strategies and creating the right conditions that will allow the job-creation potential of the growth sectors as identified in the Employment Package to be realized. As regards health and social care, the recognition of the role of the social partners and the outcomes of the sectoral social dialogue on recruitment and retention and ethical cross-border recruitment in the hospital sector is welcome.

Mobilising EU funds for job creation

The ETUC welcomes the Commission’s general approach to mobilising EU funds for job creation. We support the orientation of all the funds towards achieving labour market objectives. However, the ETUC believes that the European Social Fund (ESF) must be the main instrument for implementing the Europe 2020 Strategy in the field of employment, labour market policies, mobility, education and training and social inclusion and that the four priorities for ESF use should remain clearly defined in the regulation. The ESF should also expand its support to the development of social dialogue, namely by improving the capacity building of social partners. In terms of governance, the European Social Partners have welcomed the new “European Code of Conduct concerning Partnership” which should serve as a guideline for the implementation of the structural funds regulations.

⁴ ETUC Position ‘Putting just transition into action in Europe and globally - ETUC position towards Qatar COP18, <http://www.etuc.org/a/10031>

Restoring labour market dynamics

Labour market reforms: There are many examples where companies, working with trade unions, have delivered positive and innovative changes in adapting to the transforming global economic landscape. Whilst it is true that during the initial stages of the economic crisis the social partners agreed on and implemented effective solutions with the aim of cushioning the effects of the recession in the interest of companies and workers, a fundamental aspect of such negotiated approaches is that they were possible in those Member States with a well-established tradition of social dialogue. For the trade union movement this merely demonstrates the merits of strong social partners, with effective social dialogue and collective bargaining.

The ETUC has warned that focusing on a European concept of flexicurity would be unhelpful but the Commission has, nevertheless, sought to revisit the flexicurity agenda in the context of and as a response to the crisis. By continuing with the European flexicurity agenda (with the reference to a “single open-ended contract’ being repeated in the accompanying staff working document), the Commission is failing to send the clear message that, in a time of crisis, flexicurity is not the answer. Europe’s labour markets already have a high degree of flexibility but the quest for ever more flexibility has resulted in worker insecurity often linked to the rise in atypical forms of employment. There is evidence⁵ that the flexicurity concept has failed to pass the test of the crisis, with rapidly rising unemployment with little or no corresponding security in the form of robust benefits, increased access to training and the necessary active labour market policies.

Moreover, the Commission even seems to be sliding backwards on the dimension of labour market security by invoking ‘time limits’ and ‘increased conditionality’ for unemployment benefits. In particular, presenting social security reforms which have contributed to an explosion of inequalities and poverty as ‘modern’ (Germany, Hartz reform) is disingenuous as is the claim that Member States that have both weak job and social protection constitute a ‘flexicurity’ cluster (CEE countries).

Whilst the Commission advocates that Member States should, despite budgetary constraints, maintain the pillars of flexicurity (e.g. unemployment benefit coverage) the reality does not support this. The ETUC questions whether the Commission is really able to reconcile the promotion of fiscal consolidation with the flexicurity agenda. Added to this, while it is generally accepted that strong social dialogue is a necessary element for the success of any genuine flexicurity model, we currently see a Europe-wide trend of attacks on collective bargaining and the resistance at European level to strengthening workers’ involvement.

The ETUC reiterates that labour market flexibility does not create more jobs, but simply transforms the existing work into precarious jobs and contracts: “Bad jobs drive out good jobs”. This actually undermines the recovery of the economy since workers in flexible, insecure contracts get paid less and save more because of the insecurity they are facing. Precarious work produces a weaker, not a stronger, recovery – as the Communication itself points out, during the crisis job losses were mainly concentrated on workers with fixed term contracts.

The ETUC does however believe that the Commission’s focus on the potential benefits of internal flexibility is positive. The ETUC has called⁶ for an EU-level initiative, to be developed

⁵ *Not for bad weather: flexicurity challenged by the crisis*, ETUI 3/2010, ISSN 2031-8782

⁶ ETUC Resolution - Investing for growth and jobs, ETUC reaction to the Annual Growth Survey 2012 (see above)

with the full involvement of the social partners, with the objective of maintaining jobs, protecting income and providing workers with an opportunity to maintain skills.

Labour market segmentation: the Commission rightly acknowledges the problem of labour market segmentation, excessive use of non-standard contracts and bogus self-employment but the ETUC regrets the lack of balance displayed in its approach to tackling the issue. Whilst the Commission remains focused on employment protection legislation (EPL) as an obstacle to job creation, the ETUC maintains that any balanced approach must recognise that precarious work is a consequence of too many loopholes in labour law, allowing some employers to undermine the stability of the work relationship and gain unfair competitive advantages over those who seek to respect worker protections. Rather than a general approach which seeks to weaken EPL, the Commission should focus on closing those gaps and ensuring equal treatment for all workers irrespective of contractual status and gender.

We emphasise the need to ensure that any initiatives in the context of the Employment Package are geared towards promoting gender equality generally and specifically addressing the gender pay gap and gender segregation in the labour market.

Delivering youth opportunities: the ETUC has repeatedly stressed the urgency of the situation regarding youth unemployment and in their Work Programme 2012-2014, the European Social Partners committed to negotiating a framework of actions on employment for young people as a priority. In a context in which flexibility is unilaterally imposed on young workers, the emphasis needs to be placed first and foremost on security. The ETUC is convinced that an approach focused on making ‘flexicurity’ a key element in addressing the labour market segmentation of young people is both risky and misguided. Active labour policies, guaranteeing the creation of quality jobs and averting any risk of social exclusion or discrimination against young people, implemented jointly with the social partners, should be promoted instead.

The ETUC supports the concept of a youth guarantee ensuring that every young person is offered training or a job within a set period of time. We look forward to the Commission’s proposal for a Council Recommendation on Youth Guarantees before the end of 2012. Within the framework of the youth guarantee concrete targets should be set e.g. for the reduction of youth unemployment within a precise time frame and to increase the EU budget for combating youth unemployment, including the ESF. The ETUC is also committed to a “European Charter on Internships and Apprenticeships” and welcome the Commission’s consultation on a *Quality Framework for Traineeships* to which we will submit a separate response.

Reinforcing social dialogue & collective bargaining

Strong social dialogue at all levels is a key element in finding relevant solutions to labour market and workplace problems and is as relevant in times of crisis as at any other. The Commission’s emphasis on reinforcing social dialogue is both welcome and timely. The ETUC underlines the need to support and spread collective bargaining as a tool for reducing labour market inequalities, ensuring decent work and wages, preventing social dumping and ensuring fair competition. Coordinated collective bargaining is an important engine for boosting aggregate demand and organizing a self-sustained process of economic growth. This implies and requires a national and sectoral approach to collective bargaining, in addition to action at company level.

In this context the ETUC also reiterates its demand that a legislative general framework instrument be developed, strengthening the rules on worker participation, ensuring that all the legal forms of company entity at the EU level are subject to binding regulations on worker participation in company boards and on information and consultation with worker representatives regarding cross-border issues⁷.

The Communication rightly highlights that “strong social dialogue is a common feature in those countries where labour markets have proved to be more resilient to the crisis”. However, the actions of the Troika in those Member States subject to financial bailouts, and those of other Member States of their own volition, are in stark contradiction. The ETUC reiterates our concern that the economic crisis is being used by many Member States as an excuse to disregard trade union and workers’ rights⁸, and dismantle industrial relations structures and processes thus undermining social dialogue and collective bargaining. The ETUC warns that these reforms may violate fundamental ILO, Council of Europe and EU norms and standards. The ETUC condemns the Commission’s failure to react more strongly to measures violating fundamental rights of the kind guaranteed in the EU Treaty and in the Charter of Fundamental Rights. We call for more visibility from the Commission in promoting and defending trade union rights, including safeguarding the right to strike.

Invest in skills: there is a clear consensus among policy makers and the social partners that investment in the education, training and skills of Europe’s citizens is a key condition for European prosperity. The ETUC agrees with the Communication’s emphasis on investment in skills, the need for anticipation of skills’ needs and the focus on developing lifelong learning (LLL). The ETUC has previously called for an individual right to training. Whilst the Commission is right to raise the issue of skills mismatches, the ETUC is concerned that the unemployment crisis should not be reduced to a question of skills’ mismatches and shortages. Merely matching the skills’ needs in the labour market, improving vocational education and training (VET) and the recognition of competences is not sufficient to create new and good jobs.

The ETUC also warns that the impact of the economic crisis, fiscal consolidation and corresponding public spending cuts, should neither be ignored nor minimised. A real and effective policy on LLL, VET and on training and education effects on labour market is impossible without appropriate funding. Structural funds can make an important contribution but are complementary and the Member States, regions and local authorities should provide the necessary resources to support the processes.

The ETUC also draws attention to the role of industry and the social partners in this area. The partnership principles should be strengthened, including clarification that this involves not only employers and VET providers, but also trade unions at all levels. The direct management of LLL/VET by trade unions through their own institutions/bodies/representatives should also be recognised and supported. Additionally, businesses must be encouraged to invest in not only their own but also the local workforce. Measures should be developed to assist SMEs in particular, for example, through pooling resources, to ensure that their workers have access to training and LLL opportunities. The impact of company practices, such in restructuring or relocating processes, on skills retention in a sector and in the locality should also be addressed.

⁷ ETUC Resolution on workers participation at risk: towards better employee involvement, 07-08 December 2011, http://www.etuc.org/IMG/pdf/Resolution_Workers_Participation_EN_FINAL.pdf

⁸ *The crisis and national labour law reforms: a mapping exercise*, ETUI Working Paper 2012.04

Restructuring: the ETUC has repeatedly stressed the need for a legal framework on anticipation and management of change and restructuring and demanded EU action to implement this, most recently in our response to the Green Paper on restructuring⁹.

Towards a European labour market

The ETUC believes that a European labour market must be founded on European ‘rules of the game’, combining open borders with adequate protection. These must ensure: equal treatment of local and migrant workers, no unfair competition on wages and working conditions; respect for national collective bargaining and industrial relations systems; equal access of all workers to social benefits; and proper instruments and tools for monitoring and enforcement of labour standards.

Mobility: the ETUC remains firmly committed to the principle of the free movement of workers and believes that voluntary mobility is to be encouraged and facilitated. Mobility should, however, be a right not an obligation and we are concerned at the disproportionate emphasis being placed on geographic mobility as a solution to unemployment. Mobility can contribute to improving an individual’s employment prospects but must not detract from the need for necessary investment at all levels in local development i.e. creating jobs where people live, particularly in areas of high unemployment.

We welcome the Commission’s focus on the obstacles to mobility and the free movement of workers. Removing obstacles is mainly up to the Member States, but the Commission should recommend guidelines and coordinate national and intergovernmental initiatives. We regret, however, the failure to emphasize the need for equal treatment, the obstacles posed by social and wage dumping and the need to ensure respect for national employment and labour law and industrial relations systems. The ETUC reiterates that the Commission’s proposals regarding the Monti II Regulation and the Enforcement of the Posting of Workers’ Directive do not resolve these problems¹⁰.

The ETUC does not support the division of the EURES (the European employment services) between the ESF and the proposed new Programme for Social Change and Innovation (PSCI). The ESF should provide a minimum share for EURES activity, notably cross-border partnership, which is fundamental to removing obstacles to mobility and preventing social dumping across borders. Additionally, the mobility priority in the ESF’s use should be compulsory for the Member States. If EURES is, nevertheless, divided into two funds, the PSCI should be a subsidiary tool to support EURES cross-border partnership, together with the ESF; to achieve this goal, the partnership principle and minimum share must also be integrated in the PSCI¹¹.

Migration: the Commission recognizes the need to address the issue of migration, and whilst no concrete proposals are in this Communication, numerous legislative initiatives have been taken in recent years. For the ETUC, a coherent legal framework for migration, including the

⁹ ETUC Resolution on Anticipating change and restructuring ETUC calls for action 6-7 March 2012, <http://www.etuc.org/a/9815>

¹⁰ ETUC position on the Enforcement Directive of the Posting of Workers Directive, <http://www.etuc.org/a/10034>

¹¹ The proposed EU Multiannual Financial Framework and Cohesion Policy 2014-2020: ETUC position and call for consultation, <http://www.etuc.org/IMG/pdf/EN-The-proposed-EU-Multiannual-Financial-Framework-and-Cohesion-Policy-2014-2020.pdf>

need to avoid rights' segmentation among different categories of migrants, combined with improved policy coordination of policy in this area is required. The Communication's failure to address the obstacles to the mobility of third country migrant workers is also an important missing element.

Enhancing EU Governance

Reinforcing coordination of employment and economic policies: the ETUC has previously highlighted the need for more balanced economic governance and therefore welcomes the proposal to balance the new economic governance by strengthening its coordination with employment and social policies. This is also a necessity if the EU is to reach its Europe 2020 goals.

The proposals to build a benchmarking system on employment and a scoreboard of the implementation of the National Jobs Plans are useful. It should allow the transparent monitoring of employment performances and progress towards other Europe 2020 targets such as poverty reduction. To this end, the European social partners should be involved in setting the benchmarking and scoreboard criteria.

Improving the involvement of the Social Partners: involving social partners in the elaboration and implementation of economic and employment policies is essential. Moreover, the social partners should be consulted in a timely fashion prior to the publication of the Annual Growth Survey and in discussions to define the 'main strategic priorities' regarding employment policies rather than once already established.

For the ETUC, organizing a monitoring of wages at the European level can only be done under the following conditions: the autonomy of social partners is strictly respected, wages are not used as an instrument of competitive adjustment, the scope must be broad and include fiscal, monetary policy and qualitative determinants of competitive positions, that profits and their use are being monitored.

A stronger and improved macro-economic dialogue, including in particular an enlarged exchange on political level between the European and national social partners on the one hand and both employment ministers as well as ministers of finance on the other, is the right forum through which this closer involvement of social partners is to be organized. This also constitutes the forum through which social partners should be involved in the procedure on macro-economic excessive imbalances (scoreboard, alert mechanism report, in-depth country studies).

In all of this, the articles 153-5 TFEU, restricting the competence of the European Union on wages, and article 152, obliging the Union to respect the diversity of national systems of industrial relations and wage formation, need to be taken strictly into account. To do so, and in respect of the autonomy of social partners, any specific discussion on wage dynamics needs to be done at a bi-partite level between European social partners themselves, with the Commission facilitating such a dialogue in accordance with articles 152 and 154 TFEU.



ETUC DECLARATION ON GREECE

Adopted at the Executive Committee on 7 March 2012

The ETUC Executive Committee meeting on 7 March 2012, expresses its full solidarity with the working people of Greece who are gravely and irreversibly affected by losses of jobs and income that erodes their ability to address the negative impact of the crisis.

The ETUC declares its support for the Greek trade unions in their struggle against the unprecedented IMF–EU–ECB onslaught that methodically dismantles core labour rights, uproots labour institutions and demolishes the social state depriving workers of vital institutional capabilities to defend themselves. In particular, free collective bargaining is impeded, collective agreements abolished and trade unions intimidated, while social dialogue is systematically destroyed to be replaced by authoritarian unilateralism that renders national social partners redundant. The senseless and unjustifiable demand by the Troika for the closing of the Workers' Housing Organisation (OEK) and of the Workers' Social Fund (OEE) is a further attack on the existence of trade unions in Greece.

Greece is being pushed to one of the deepest economic slumps in modern times, forecast to cumulatively reach wartime recession levels of 25%–30%. Sacrifices imposed on workers, pensioners and their families are without precedent in the post war period. The most drastic reduction in a primary budget deficit that Europe has seen for over 30 years was achieved in Greece thanks to the impoverishment of Greeks. With more than one million unemployed, nearly 30% of the population has shifted to below the poverty line. Nearly a quarter of a million people rely on relief work for a daily meal.

Nonetheless fresh austerity is ceaselessly heaped on top of existing measures. The national minimum wage—the last protective threshold for low-paid workers—was recently slashed by 22% (32% for young workers) a move that will universally pull down wages by 40% and abolish a series of benefits. Further measures are expected in June.

The ETUC monitors with the utmost concern the situation in Greece that by far exceeds any sense of fiscal discipline and violently imposes a level of devastation no people can accept, leading the country into an economic, political and social abyss.

We express our indignation at the proposed prioritising of loan repayments over pensions, salaries or any social need via an escrow account where all public Greek revenues will be collected, pushing the country soon into an internal default.

This is not an acceptable course. Greece needs options for recovery in a spirit of real solidarity and cohesion which for once will really put people before the markets.

The ETUC reiterates its proposal for an EU-type “Marshall Plan” approach aimed at growth, employment and innovative investment: an EU solidarity pact for economically sustainable and

socially acceptable solutions with the effective involvement of trade unions. We call on Greece's creditors and the Greek authorities to refrain from further squeezing of wages, pensions and imposing new taxes. It is prime time to insist on alternative debt and deficit-reducing options. Equitable tax collection, action against tax fraud, effective use of structural funds available for investment, revisiting Greece's excessive defense spending and easing its defense needs by a European guarantee for Greek frontiers, and cutting superfluous spending and not social expenditure are just some of the available alternatives.

The ETUC and its affiliates will remain vigilant and active, at the forefront of Pan-European efforts to save Greece.



Resolution

Anticipating change and restructuring

ETUC calls for EU action

Adopted at the Executive Committee on 6-7 March 2012

Social dialogue, negotiation and participation are the fundamental values and tools which underpin and reconcile the promotion of social cohesion, quality employment and job creation and increased innovation and competitiveness in European economies. Action on the anticipation and management of change is therefore predicated on the respect for fundamental worker rights. Any attempt to use the economic and financial crisis as a means to undermine or limit the role of negotiation or other fundamental worker rights, presenting them as a luxury in a period of austerity, will be vehemently opposed by the ETUC and Europe's citizens. On the contrary, it is in a crisis that a stronger role is needed for the social partners to ensure that they are able to find solutions to manage change socially whilst promoting and stimulating growth and development.

On the 17 January 2012, the Commission published a new Green Paper on 'Restructuring and anticipation of change: what lessons from recent experience?'. By launching an on-line public consultation, the Green Paper aims to identify "successful practices", feeding the results of this consultation "into the revived flexicurity agenda" with a view to steering a debate on a "possible approach to and framework for restructuring". With such poor ambition, and a total absence of proposals to tackle the ever more urgent situation regarding restructuring in Europe, it is not clear to European workers why the Commission has waited nearly a decade before deciding to waste even more time and procrastinate with dissemination practices. Moreover, it is disastrous that the approach to address public and private sector restructuring will be based on an already discredited European-level labour market strategy. Furthermore, the Green Paper makes reference to the 2003 "orientations for reference" negotiated in the framework of the European social dialogue. However, the text was never formally adopted by ETUC. Affiliates only noted this weak document and strongly expressed their will for a European framework on anticipation and restructuring.

If the European Union is to respond successfully to the challenges posed by the economic crisis, imposed austerity, globalisation, climate change, demographic trends, rising inequalities and the swift pace of technological and organizational change affecting society in general and the workplace in particular, it needs to take urgent action and develop a strategic and pro-active approach with regard to anticipating and managing restructuring based on a European legal framework. For a decade, the ETUC has called consistently called for a 2nd stage social partner consultation and EU action. Today's employment and economic crises create an urgent imperative for this action.

Commission backslides on own proposals

The ETUC is all the more critical of the decision to publish a Green Paper rather than a social partner consultation since this reflects a major step back from the Commission's own work programme. In October 2010, through the Europe 2020 Flagship Initiative on Industrial Policy, the Commission announced its intention to launch a 2nd stage social partner consultation on restructuring during 2011. Indeed this initiative was the only social element in the EU's renewed industrial policy agenda. However, this initiative has been repackaged as a Green Paper, open to public consultation, and stating the discussion about European action from scratch rather than building on work undertaken since the first social partner consultation in 2002. Not only does this contradict the Commission's own position stated in 2010 that social partners were the primary actors in restructuring and that their views and possible joint action should be prioritised, but it also adds another delay to EU legislative action ensuring the framework for the anticipation of change.

Anticipating, managing and accompanying restructuring processes requires the active participation of all relevant actors and must be based on clear synergies between political, legislative, contractual and financial instruments. In addition, action must be taken at all relevant levels, including the European level. This can only be achieved if we are able to establish the right balance between the interests of the different stakeholders, namely those of the enterprise and its workforce. We know that this is seldom the case!

Social cost of restructuring rising

2012 is set to be a difficult year for European workers. Intensifying global competition, the spirally economic crisis, demographic developments, technological progress, climate change obligations and shifts in patterns of employment individually and collectively are having a dramatic impact on labour markets. If the EU is to meet these challenges, it will need to create more and better jobs and enable working men and women to improve their skills and more specifically match them to short-term and long-term labour market demand. This demands long-term policy on the anticipation of change and the development of common industrial policies.

Trade unions do not resist change, as long as it is justified, negotiated and well-managed in a socially responsible way. What the ETUC will always resist is a scenario in which the negative consequences are borne exclusively by workers, whilst a significant proportion of managers who have failed to live up to their responsibilities receive a 'golden handshake' in return, all the more unpalatable as income inequality is growing exponentially between top salaries and average pay.

While different national and regional policy and legal frameworks operate in the EU, restructuring always entails high costs for workers and their regional and local economies. These costs are rising. The alarming nature of the financial and economic crisis and the austerity measures which continue to fuel it have led to reduced public sector funding, which in turn has led to the further loss of jobs, the growth of precarious work and insecurity for millions of men and women, particularly those on temporary or part-time contracts and engaged in seasonal work, adding a formidable supplementary challenge. "Fiscal consolidation plans" coordinated at EU level are effectively enforcing widespread public sector restructuring

plans, i.e. job and pay cuts, reduced employment protection, weakening or even banning of trade union rights, outsourcing or privatization of public services, leaving limited or no room to negotiate restructuring plans. Meanwhile, over recent decades, global competition and company restructuring have led to the loss of employment in manufacturing industries in the European Union, particularly amongst the low skilled. The ETUC has long argued that zero unemployment should be the main goal of policies managing restructuring processes alongside the recognition that policies must deliver appropriate solutions for each and every worker. This demands a framework on support measures and investment in active labour market policies.

However, the very systems cushioning workers from the brutal impact of economic change are being undermined through austerity and deregulation, and worker representatives are increasingly considered only as a means of ensuring the acceptance of change. On the contrary, it is only through consistent and stronger worker participation that change can be managed in a socially acceptable manner, trust is nurtured and anticipation policies can develop.

While, the rules of financial and industrial capitalism are global, the applicable standards on workers' participation in corporate strategy and restructuring are still largely shaped at national level, with a few European tools (information and consultation, EWCs etc.) which have not been fully implemented in all Member States. With ongoing globalisation, it is becoming more and more difficult to defend subsidiarity approaches defending national provisions. As business goes global and ignores national boundaries, a rethinking of the role of workers' involvement in companies and the public sector is essential at European level. Existing legislation needs to be addressed and improved to reflect economic reality. For instance, the transfer of undertakings directive's limited scope which necessitates a revision so that transfers through a change of ownership can also be covered. This is particularly important in a context of the increasing financialisation of investments, as aggressive job cutting and frozen wages are often the price paid for an excessive debt burden undertaken by a leveraged buy-out. It is only on the basis of strong worker participation that a coherent anticipation agenda at European level can be developed, which has as its central goal the promotion of high quality employment and decent living standards.

Already in its Communication in 2005 on restructuring, the Commission recognised the problems associated with the negative fallout of restructuring, delocalisation, fusions, takeovers and mergers, not just for workers themselves, who in every country share a sense of insecurity prompted by fear that their jobs will disappear or go abroad, but also for different sectors of the economy that are directly or indirectly exposed to the consequences of restructuring and for entire local and regional economies. These consequences are more often than not incompatible with the Europe 2020 objectives, namely those related to promoting full employment and the quality of jobs, social and territorial cohesion, a new industrial policy agenda for Europe and sustainable development. In yet only limited and mostly reactive steps have been taken since the last Communication: e.g. the recast rather than revision of the EWC directive, the creation of the European Globalisation Adjustment Fund, or lately the proposal for sectoral skills and jobs councils. Workers still bear an unfair burden in anticipating and managing the effects of corporate decisions.

Trade unions have integrated constant change as an ever more present feature of their daily action in order to maintain a certain level of performance in the European sectors of activity and to remain competitive in the global market. In a legal vacuum, a number of multinational

companies and their workers have chosen to negotiate agreements on the anticipation of change. However, these individual transnational agreements cover a diverse range of issues, and lack a legal framework to ensure their application therefore are dependent on goodwill on the part of the partners. During recent months, the speed with which management has abandoned its commitments included in such agreements, e.g. in GM or ArcelorMittal, demonstrates this weakness. Moreover, while this is strategy available to larger companies with strong industrial relations cultures, these agreements cannot provide a framework to tackle the wider effects of public sector restructuring and the silent restructuring going on in SMEs within broader supply chains and regional economies.

This reality and good practices to tackle at the national level have been explored in successive social dialogue projects on restructuring in the EU27, several Commission-organised Restructuring Forum and the ETUC's and national trade unions' own projects. Considerable literature and case studies exist but political will to draw the lessons and put these into practice has been lacking.

We have had enough evaluations of best practices – it's time for political action!

Ten years after the first social partner consultation on the issue, which already identified weaknesses and loopholes in EU rules, the ETUC calls for strong EU action to proactively improve the anticipation of change in workplaces and improve the legal framework in which restructuring takes place. The ETUC considers the following 5 elements key to EU action on the anticipation and management of change and restructuring:

- **Preparing and enabling workers: key role of education and training**

Equal access to continuing education and training is essential to respond to citizens' changing circumstances and aspirations on the one hand and the needs of the labour market on the other. The ETUC considers that all workers should have equal access to education and training at all levels, regardless of their age, gender, employment status, or nationality, and particularly groups with low participation, such as the low-skilled, older workers and workers on temporary or part-time contracts, so that they are able to acquire, update and develop their knowledge, skills and competences throughout their lifetime (e.g. through individual training plans and learning accounts). Those that need training the most should not be the least likely to obtain it. The ETUC calls on the EU to underpin this access with a workers' right to training. An anticipation framework must address tools focused on future skills needs and the upgrading of skills, through strong social dialogue on workforce planning and multiannual plans on employment and skills development in the public sector, companies and sectorally. The ETUC considers that employers, and particularly SMEs, should support lifelong learning initiatives by making learning more accessible during working hours, and better suited to workers' needs, either through the individualisation of learning plans, the shift to competence-based training, the move to modularisation or the use of distance learning. The ETUC calls on Member States and employers to invest in working men and women and to increase expenditure per employee for initial and continuing vocational training, particularly to support young workers entering the labour market (through a European Youth Guarantee) and to redeploy those made redundant (ETUC Resolution December 2010: <http://www.etuc.org/a/8067>).

- **Maintaining and creating jobs: key role of industrial policy**

A stronger and sustainable European industrial policy agenda creating and maintaining jobs through significant public and private investment in R&D, innovation and infrastructure, to develop a strategic approach that goes beyond enhancing framework conditions but promotes life-cycle thinking and the need to close the ecological loop, supporting the development and diffusion of more eco-efficient technologies and fostering the development of markets for sustainable goods and services, while adjusting industry to these upcoming sustainable markets and technologies and preparing industry for greater energy- and resource-efficiency (ETUC Resolution April 2011 <http://www.etuc.org/a/8682>).

- **Giving workers a voice and place in strategic decisions: key role for information, consultation and participation**

The strengthening of worker rights to information, consultation and participation is fundamental. Worker representatives and trade unions should not be seen only as a means of ensuring the acceptance of change, and involved in the case of restructuring. An anticipation agenda demands a consistent dialogue, the building of mutual trust and a model of corporate governance in which workers' rights to contribute to corporate strategies are increased. A stronger participation of workers in strategic business decisions which are often taken at European or global level is necessary. This links to an ambitious European industrial policy and corporate governance agenda, with worker representatives empowered at the company level on questions of investment, production, innovation and R&D spending, as well as general corporate economic, social and environmental management. The current crisis must be considered as opportunity to strengthen worker involvement to strengthen the long-term viability and sustainability of European workplaces. The rights of information, consultation and participation in restructuring and in the case of a change of ownership must be improved to ensure adequate 'voice' for workers and opportunities for trade unions to negotiate fair solutions on their behalf. This process should take place in a context of upward harmonisation. Existing legal instruments on information, consultation and participation must be fully respected and enforced, with efforts made to ensure coherence. Employers who do not respect these instruments should be sanctioned effectively. In the event of merger control procedures, DG Competition should take decisions on the basis of a number of different aspects and worker involvement, namely those related to employment and industrial policy. This confirms the need for better interaction between the relevant EU policies when designing an appropriate strategy for managing restructuring. Furthermore, corporate governance rules should ensure managerial autonomy to avoid an over-emphasis on the short-term demands of shareholders (see Resolution December 2011: <http://www.etuc.org/a/9425>).

- **Ensuring a European legal framework: key role of collective bargaining**

The creation of a European legal framework for transnational collective bargaining and agreements at enterprise level or sectoral level, respecting the bargaining competence of trade unions, in order to support public and private sector companies and sectors handle challenges dealing with issues such as work organisation, employment, working conditions and training (ETUC Resolution <http://www.etuc.org/a/1847>).

- **Providing a safety net: key role for active labour market policies, social protection and support measures**

Any restructuring framework must include support mechanisms for workers who fall victim to economic change, recognising the importance and role of quality public services. These mechanisms must be clearly defined, both prior to the restructuring process itself, throughout

that process and by monitoring it over an appropriate period of time in a bid to analyse the sustainability of the steps taken. These steps should include health and safety and gender impact assessments of restructuring plans, an active search for alternative solutions to redundancy, tailor-made measures in the areas of job counselling, training, support in finding a new job, placements in another company, support for the creation of new activities with access to necessary loans, adequate social protection during unemployment and a job search period. All this with a view to promoting negotiated geographical and career mobility ensuring non-discrimination, while avoiding 'brain-drains' between countries. These measures should be co-financed by the EU's Structural Funds (ETUC Resolutions <http://www.etuc.org/a/9510>).

Annex:

ETUC response to questions posed in the 2012 Green Paper on Restructuring and anticipation of change: what lessons from recent experience?

Lessons from the crisis

- 1. Are the policy measures and practices outlined above in relation to restructuring, with special reference to short-time working schemes during the crisis appropriate? In what specific contexts? Are they able to cope with persistently weak demand? Finally, what can Member States, the Commission or the social partners do to exchange, disseminate and encourage wider application of the best practices in this domain?**

The Green Paper wholly fails to address either the drivers of restructuring in the current crisis or the manner in which stable and strong industrial relations has avoided greater unemployment.

The economic crisis has demonstrated the need to go further in the discussion through EU legislative action on anticipation of change and restructuring. In those cases/countries where the social partners have been allowed/able to find joint solutions they have been highly innovative and successful in doing so. However, as this is not the case throughout the EU there is a need for EU legislation to address those gaps.

Unfortunately, little attention is paid to understand what and how instruments in which countries have helped to maintain employment levels in some countries during the crisis. Short time schemes and the use of working time accounts are only possible on the basis of a two-track approach: strong employment protection and intensive collective bargaining. However, the Commission gives a limited analysis on the situation in Germany, Belgium, Austria or the Scandinavian countries which managed to maintain employment at a high level despite collapses in production. The Commission stresses the risk of “prolonged use of short-time work”, “possibly delaying” restructuring and argues that short-time work schemes hold back productivity growth. Indeed the productivity growth was negative in these countries, but very positive in Spain. As the Commission for ideological reasons does not accept “more non-productive time”, described as “labour hoarding”, the Commission’s view of short-time is ambiguous and unclear. This approach is neither helpful nor appropriate.

For the ETUC, the active intervention of public authorities and/or social partners through 2008-9, through the rapid application/extension of existing labour law measures (largely based on arrangements for seasonal professions) and the negotiation of new collective agreements, demonstrated the importance of strong labour market institutions, in avoiding a far deeper and more rapid collapse in employment. Short-time working schemes proved a highly successful model for smoothing the short-run adjustment.

When private sector demand evaporated and production plummeted following the collapse of Lehmann Brothers in autumn 2008, public sector-led demand stepped in, both in the form of ‘automatic stabilizers’ (unemployment benefits and benefit support for short-time working schemes) as well as in the form of explicit demand stimulus.

Countries which already had these schemes in place had an advantage as they avoided delayed reactions of this buffer. An important factor in making best use of these schemes seems to have been their quick adaptation to the new needs, although some countries did not avail themselves of this option, or did so to only a limited degree. Countries that introduced such schemes for the first time suffered delays in the buffer effect but, on the other hand, were able to design them directly in the manner best suited to the current crisis. The short-run buffer function of ALMPs depends, among others, on prior expenditure and intensity levels, on timing (early activation or not) and on the focus of measures (short-term versus long-term, training versus employment subsidies).

In many cases, they provided the emergency provisions needed to cope with unanticipated collapse, ensuring the maintenance of purchasing power for workers and maintaining skilled workforces close to companies.

Trade unions have been highly critical of companies' that have exploited the availability of such schemes to hold workers in a 'limbo' for a long period without investment in training or activity, and effectively supported through a state subsidy of salary costs. Therefore, these schemes were largely destined to be short-term and must be linked to demand-focused economic and sustainable industrial policy measures (e.g. the 'cash for clunkers' or energy efficiency and renovation programmes). Such policies ensured that key manufacturing industries and services in Europe were able to rebound by early 2010.

As the Commission Staff Working Paper demonstrates, much has already been done to share the lessons of these national experiences at interprofessional and sectoral level.

Despite the broad dissemination of different practices (through Restructuring Forum, social dialogue committees, within social partner organisations), the lessons of 2008-9 were very quickly forgotten in the context of the spiralling financial and economic crisis from 2010 to date. Economic governance rules (through the so-called 6-pack as well as the hastily and undemocratically concluded 'International Treaty on economic governance') have pushed member states to adopt extremely pro-cyclical policies. With austerity squeezing countries to breaking point as unemployment rockets up, under these circumstances, it would be sensible to let the automatic stabilisers work. That is what the eurozone member states did in 2009. It ensured that the recession, while very deep, was at least not excessively long. However, this option is now tightly curtailed, removing key tools to ensure the cushioning of economic change. The short time working arrangements ensured that the workforce was available to quickly respond to increased demand. A rebound currently being jeopardised by the excessive austerity imposed in the context of the sovereign debt crisis. Supply-side labour market reform will not ensure future growth and employment in Europe; this must be addressed through demand-led sustainable growth policies, including the promotion of a Just Transition to an energy and resource efficient model.

The experience gathered over the past decade and particularly since 2007-8 demonstrates the importance of European action to create a legal framework through a European directive on the anticipation of change and restructuring, based on the good practices already developed at company, sectoral and national level. The ETUC demands EU legislative action to ensure this is taken forward.

Fostering economic and industrial adjustment

2. The Commission would like to hear views from stakeholders on the following questions:

a. What types of framework conditions are most appropriate in order to enable successful industrial adjustment?

In the view of the ETUC, 5 key framework conditions must be addressed through EU action: macroeconomic framework conditions, the promotion of social dialogue and collective bargaining, investment in education and training, worker participation and corporate governance, and the creation of a European industrial policy capable of reorienting the European economy towards sustainable development, and generating jobs in the process.

1. Sustainable and progressive macroeconomic policies are the bedrock for public services and private companies operating in Europe. While social Europe has been stalled, we have witnessed the liberalisation of labour markets, the greater introduction of both precarious employment and economic flexibility, and changes in our welfare states which promote greater wealth inequality - especially in relation to unemployment policies and pensions. Wages and labour costs have increasingly been targeted undermining purchasing power and consumer demand. We urgently need coordinated and sustainable investment, and integrated social, economic and sustainable industrial policies, to ensure public confidence in the economy and stimulate economic demand, protecting jobs in the real economy. Growing wealth and income inequalities must be addressed through fair taxation policies. Excessive inequity in pay structures between senior management and their workforces has to be rebalanced (i.e. maximum bonuses awarded to top management must be regulated). Workers should be compensated fairly for productivity gains achieved by their company. The share between profit and wages should be more fairly balanced in order to support the development of workers' purchasing power. Moreover, measures to tackle fiscal dumping in the EU are needed, including the directive on a harmonised corporate tax base, the abolition of tax havens and greater effort to fight tax evasion.
2. In the context of today's economic restructuring, the role of social dialogue and collective bargaining on local, national and European level is of crucial importance to ensure the framework conditions for socially acceptable restructuring and the anticipation of change. Stronger co-operation between social partners at all levels is needed. During the crisis we have seen the benefits to be gained by the social partners adopting joint solutions, however, more recently in many countries the crisis is being used as an excuse to undermine social dialogue structures and interfere with the autonomy of the social partners, particularly in relation to collective bargaining and wage setting.
3. Europe's social and economic well-being is dependent on having a well-educated and highly skilled population, and education and training play an essential role in giving citizens the knowledge, skills and competences they need to participate fully in society and the economy. It is particularly important in the context of

restructuring and anticipation of change, to equip and prepare workers for changes in their workplace/industry. Global competition, demographic developments, technological progress, climate change obligations and shifts in patterns of employment individually and collectively are having a dramatic impact on labour markets and the need for new knowledge, skills and competences. If the EU is to meet these challenges, it will need to create more and better jobs and enable working men and women to improve their skills and more specifically match them to short-term and long-term labour market demand. “Comprehensive lifelong learning strategies are required to ensure employability of workers. It is important to establish effective concepts for initial and further training, create jobs, not least for those who are excluded from the labour market due to, for example, shortcomings in their education, and to take effective steps to remove discrimination as far as access to and remaining in the labour market are concerned. Well educated workers and the capacity to innovate are key elements of competition and a prerequisite for prosperity. This is indispensable for the creation of productive and highly-skilled jobs” (a 2010 joint statement ETUC, BUSINESSEUROPE, CEEP and UEAPME <http://www.etuc.org/a/7327>). The ETUC considers that all workers should have equal access to education and training at all levels, regardless of their age, gender, employment status, or nationality, and particularly groups with low participation, such as the low-skilled, older workers and workers on temporary or part-time contracts, so that they are able to acquire, update and develop their knowledge, skills and competences throughout their lifetime. Those that need training the most should not be the least likely to obtain it. The ETUC calls on the EU to underpin this access with a workers’ right to training. The ETUC considers that employers, and particularly SMEs, should support lifelong learning initiatives by making learning more accessible during working hours, and better suited to workers’ needs, either through the individualisation of learning plans, the shift to competence-based training, the move to modularisation or the use of distance learning. These elements should be integrated into a European legal framework on the anticipation of change and restructuring.

4. Socially responsible restructuring and the anticipation of change fundamentally rely on timely and adequate worker information, consultation and participation. Negotiated solutions to restructuring must be prioritised in all operations and all countries. The current crisis demonstrates the need for a profound renovation of the current model of corporate governance which has proved its limitations. We need a new model which gives workers a stronger say in corporate strategy and prevents the excesses of financial capitalism which have weakened long-term corporate development. The ETUC calls for workers’ involvement in the public sector and companies to become more effective through the strengthening of information/consultation and participation rights both at national and European levels. Workers are concerned about the sustainable development of their workplaces and want to be better involved in shaping the future of their organisation or companies via participation in the development of company policies. In order to achieve this they have to be informed and properly consulted – this entails having the relevant information in due time and before decisions are taken so that their views can be genuinely taken into account. Participation in decision-making bodies (such as supervisory boards or executive boards) should be strengthened. Effective and strengthened involvement of workers is a pre-

condition to ensure sustainable futures for companies and to ensuring socially responsible transitions.

5. The ETUC has long called for the European Union to ensure more coordination and strength in its industrial policy. In the context of providing alternatives to a downward spiral of competition on wages and labour conditions, trade union led innovation initiatives and the development of industrial policy concepts show that there are alternatives to concession bargaining, extending working hours and reducing pay to increase competitiveness and profitability. The European economic growth model cannot be built only on the increase of labour productivity, the uptake of ICTs or the knowledge economy but should take on board the development and uptake of sustainable technologies as well. Short-termism in business decisions has to be addressed through corporate governance and industrial policy instruments, e.g. distribution of shareholder dividends must not be done to the detriment of investment in the workforce and infrastructure and the company's development which are pre-conditions for guaranteeing a healthy and sustainable enterprise. The use of job losses and cost cutting programmes by many companies as the only means to maintain profit margins has to be addressed by public policy makers, with incentives created for longer term planning. It is widely recognised that the competitiveness of companies will be ever more dependent on the way in which they are able to invest in the development, adoption and utilisation of technologies and processes for more energy and resource efficiency. This medium to long term agenda is only possible if the constraints of short-term 'shareholder value' are eased. To support this, European industrial policies must be developed through regulation, standards and incentives, and directed towards developing a new economic model based on innovation, eco-efficiency, sustainable technologies, sustainable production and consumption, and the internalisation of ecological costs. Worker participation in industrial and innovation policymaking and implementation is of vital importance, since this engagement ensures an anticipation approach is possible through forward-thinking collective bargaining agreements and joint positions (e.g. the December 2010 joint position Confindustria-CGIL/CISL/UIL on the state of Italian industry and energy efficiency, which follows the broader 'Industry 2015' governmental initiative on an industrial policy tool-box). In the current Europe 2020 strategy, European industrial policy has risen up the agenda, however little regard is given to the importance of social dialogue and worker participation in horizontal or sectoral industrial or innovation policies – this is to the detriment of this approach and its effectiveness.

b. What existing measures on access to finance to accompany structural adjustment constitute good practice?

The European Social Fund is “the EU financial instrument” for restructuring (as stated in the current Art 3.1). Lessons have to be drawn from the use of the Structural Funds to support the recovery of the European Union. There can be no-one-size-fits-all solution as, for example, the differences in unemployment rates in member states show but we consider that the future ESF needs to include such measures and priorities as:

- providing particular support for the young, older workers and the most vulnerable groups
- improving work organization by ensuring the conciliation between living and

working time

- establishing labour market observatories
- encouraging the “recycling” and vocational retraining of workers, with a focus on innovation and the transition to a low-carbon economy
- improving support for SMEs, very small enterprises and “social economy” enterprises
- defining the role of training in times of crisis on the basis of discussions on the way sectors and regions will develop in the future
- improving dissemination of good practices, such as investing in training during periods of short-time working
- reinforcing social dialogue by joint training courses for social partners
- determining new sources of jobs creation namely in the activities linked to the fight against climate change.

The measures foreseen in the framework of the European Globalization Adjustment Fund have to be included in the ESF. On the one hand, it is essential to ensure coherence between the “curative” measures following an enterprise restructuring, which are tackled by the EGF, and the “preventing” measures foreseen by the ESF. On the other hand, it is of the utmost importance to ensure a coherence between the principles of both Funds, above all concerning partnership and particularly the involvement of trade unions. Finally the ESF supports the development of social dialogue namely by improving social partners’ capacity building and it has to continue to do so.

c. What further measures need to be taken to improve bankruptcy proceedings?

The ETUC regards Directive 2008/94/EC as an indispensable instrument of Union’s law, providing minimum protection to workers throughout Europe. But as the Directive leaves a significant margin of manoeuvre to the national legislator to implement its principles, it is essential that the Commission carries out a thorough monitoring of the transposition law in each of the Member States, having regard to the general principle of useful effect. Whilst the Insolvency Directive is an essential element of protection, its actual impact will be minor if an appropriate framework to address the consequences of the economic crisis is not in place. The risk that public authorities and companies throughout the Union are becoming unable to meet their duties towards their employees is dramatically increasing. The best protection of employees against insolvency is to avoid bankruptcies. The ETUC urges the Commission to further reflect on measures designed to prevent bankruptcies, including:

- good governance policies. If some insolvencies can be the result of economic difficulties, other reasons such as insufficient capitalisation, bad management or fraud are at the origin of many bankruptcies
- the role and size of the European Globalisation Adjustment Fund must be reassessed in the light of the increased economic difficulties
- the potentially unequal protection between employees’ rights in case of insolvency and employees’ rights in case of redundancy for economic reasons must be addressed.

Insolvency hardly comes out of the blue and often there are cash flow problems causing irregular payment of wages for a longer period than 3 months. Because of the significant divergence in the national transposition laws on the ceilings, the situation needs to be assessed on a case by case basis. A significant number of national trade unions have expressed strong concerns that in their Member States there is a large number of workers

whose unpaid wages exceed the limits set by national law. Moreover, a number of Member States apply a narrow definition of ‘remuneration’ (e.g.: excluding severance pay, bonuses, reimbursement arrangements etc.). This can result in the non-fulfilment of considerable claims.

Therefore, an improvement in existing EU provisions on

The challenge of adaptability of businesses and employability of workers – companies at the centre

3. Is the anticipative approach feasible with regard to management of change and restructuring?

Yes. It is already being practiced but in a quasi-legal vacuum at European level, as demonstrated by the Commission’s Staff Working document accompanying this consultation. These transnational company and national examples must be supported and extended through the creation of a European legal framework on anticipation of change and restructuring.

4. How can the existing orientations and guidelines on restructuring be improved in light of the lessons learned from the crisis and the new economic and social challenges? How can the lessons from the crisis be disseminated and implemented?

Throughout the Green Paper, the objective is to better identify and disseminate good practices, but this is not enough. Through its argumentation, the Green Paper (and the Staff Working Document supporting it) reinforces the crucial role of legislative/contractual regulation in providing a framework not only for anticipation and prevention but also the handling of decisions concerning restructuring operations. One cannot sufficiently stress the importance of the concept of “in due time” in the context of consultation and the provision of information. The ETUC goes further; regulation should not be based on good examples but should act as it always has done at the European level, to provide minimum standards that will make it possible to avoid bad practices.

Since the Gyllenhammar report “Managing change” requested and published by the Commission in November 1998, the Commission has consulted the social partners via two communications on restructurings and employment. The first was presented in January 2002, “Anticipating and managing change: a dynamic approach to the social aspects of corporate restructuring”, and the second in March 2005 “Restructuring and employment”. Rather than taking into consideration the recommendations made in response to those consultations, the Commission has instead chosen to use a draft document that was never formally adopted by the interprofessional social partners, the 2003 joint orientations, as a basis for the consultation. This is wholly unacceptable.

There is little convincing analysis in the Green Paper of the current situation of massive job losses and unemployment in the deepest recession since the 1930s, as compared to the situation in 2008/9 when automatic stabilisers and collective bargaining ensured lower job losses than foreseen. This is notably the case in respect of the public sector and the impact of national and European fiscal constraint and austerity on restructuring in public and private sector workplaces. The Commission limits itself to a self-referential framework, self-referencing many Commission communications (“Think Small First” 2008, “Review of Small Business Act” 2011, “Economic Recovery Plan” 2008, State aid rules...) rather than the reality.

The failures of the financial markets and of corporate governance are not reflected, rather there is an over-focus on the “internationalisation of world production” and the “competitiveness challenge”. The proposed remedy is “to enhance the competitive base” of European companies. The Commission starts from scratch and avoids analysis of its own previous policies – for instance the Commissioner Bolkestein’s action plan on financial services which pushed towards extreme liberalisation of financial markets or the flexicurity agenda which pushed for more social insecurity for workers and more atypical jobs. The Commission continues to stress that the concept of flexicurity is at the core of an integrated strategy and the adaptation capacity of workers needs to be further enhanced, when all evidence from the ground demands increased social dialogue and worker protection against precarious work.

Much evidence and experience has been amassed over the past decade through union or employer-only, joint social partner, Commission initiatives and EP activities. Several recommendations made by the Gyllenhammar report have never been addressed: one aimed to encourage major companies and public sector employers to publish a “report on change management” whilst another sought to encourage public authorities to obtain sufficient resources to play a role in training or retraining workers and facilitate necessary changes without losing workplaces. The same is true of the refusal to provide public subsidies to any company making dismissals without taking measures to safeguard the employability of dismissed workers. All restructuring should be subject to gender and health and safety impact assessments. It is now time to put this good practice into action. This should be fed into the elaboration of a legal framework on restructuring and the anticipation of change.

The key lesson drawn from the crisis is on the need for a strengthening of worker resilience through better and stronger information, consultation and participation, a worker-focused skills agenda and strong public industrial policies supporting active labour market policies at all levels. This is best done through a European legal framework on anticipation of change.

Creating synergy in the process of industrial change

- 5. What could be done to encourage strategic long-term and innovative approaches to the management of change, including employment and skills issues, be encouraged? How can synergy be improved between companies, local authorities and other local actors? How should specific responsibilities and roles be distributed among companies, social partners and public authorities be distributed in this field?**

The rules of financial capitalism are global, yet, the applicable standards on workers’ participation in corporate strategy and restructuring are still largely shaped at national level, with a few European tools (information and consultation, EWCs etc.). With ongoing globalisation, it is becoming more and more difficult to defend subsidiarity approaches defending national provisions. As business goes global and ignores national boundaries, a rethinking of the role of workers’ involvement in the public sector and companies is essential at European level. It is only on this basis that a strong anticipation agenda at European level can be developed, which has as its central goal the promotion of high quality employment and decent living standards.

Trade unions have integrated constant change as an ever more present feature of their daily

action in order to maintain a certain level of performance in the European sectors of activity and to remain competitive in the global market. In a legal vacuum, a number of multinational companies and their workers have chosen to negotiate agreements on the anticipation of change. However, these individual transnational agreements lack a legal framework to ensure their application and therefore depend on goodwill on the part of the partners. During recent months, the speed with which management has abandoned its commitments included in such agreements, e.g. in GM or ArcelorMittal, demonstrates this weakness.

Moreover, while this is strategy available to larger companies with strong industrial relations cultures, these agreements cannot provide a framework to tackle the wider effects of public sector restructuring and the silent restructuring in SMEs in broader supply chains and regional economies.

6. How can effective practices for anticipating employment and skills needs within companies be further encouraged? How can training be developed as a permanent feature of human resources management? How can synergy between action taken by companies and public sector initiatives be promoted to facilitate appropriate employment and skills policies?

Preparing and enabling workers to anticipate changes demands a key role for education and training. Therefore the ETUC demands that a future framework on anticipation of change and restructuring addresses workers' rights in this regard, and ways of applying them.

Equal access to continuing education and training is essential to respond to citizens' changing circumstances and aspirations on the one hand and the needs of the labour market on the other. The ETUC considers that all workers should have equal access to education and training at all levels, regardless of their age, gender, employment status, or nationality, and particularly groups with low participation, such as the low-skilled, older workers and workers on temporary or part-time contracts, so that they are able to acquire, update and develop their knowledge, skills and competences throughout their lifetime (e.g. through individual training plans and learning accounts). Those that need training the most should not be the least likely to obtain it.

The ETUC calls on the EU to underpin this access with a workers' right to training.

An anticipation framework must address tools focused on future skills needs and the upgrading of skills, through strong social dialogue on workforce planning and multiannual plans on employment and skills development in the public sector, companies and sectorally. Trade unions not only play an important role in the context of improving skills development and developing innovative concepts and industrial policy through their bargaining powers, but also are able to directly influence the practice of workers and learning environments as demonstrated through the UnionLearn initiative of the UK's Trade Union Congress (TUC).

The ETUC considers that employers, and particularly SMEs, should support lifelong learning initiatives by making learning more accessible during working hours, and better suited to workers' needs, either through the individualisation of learning plans, the shift to competence-based training, the move to modularisation or the use of distance learning. Regional social partner approaches, together with public authorities, offer a tried and tested

means of ensuring the engagement of SMEs and their workforces. The sectoral social dialogue has a key role to play in coordinating joint responses at European level.

The European Social Fund should be better used in the future to promote these initiatives – this should be taken into account in the current negotiations on the 2013-2020 EU budget proposals. There can be no one-size-fits-all solution as, for example, the differences in unemployment rates in member states show but we consider that the future ESF needs to include such measures and priorities as:

- providing particular support for the young, older workers and the most vulnerable groups
- improving work organization by ensuring the conciliation between living and working time
- establishing labour market observatories
- encouraging the “recycling” and vocational retraining of workers, with a focus on innovation and the transition to a low-carbon economy
- improving support for SMEs, very small enterprises and “social economy” enterprises
- defining the role of training in times of crisis on the basis of discussions on the way sectors and regions will develop in the future
- improving dissemination of good practices, such as investing in training during periods of short-time working
- reinforcing social dialogue by joint training courses for social partners
- determining new sources of jobs creation namely in the activities linked to the fight against climate change.

At transnational company level, the EMF-Schneider Electric framework agreement providing for skills anticipation and training for individual workers certainly offers a good practice example.

The ETUC calls on Member States and employers to commit to increased investment in working men and women. Now is not the time to cut back national education and training budgets and programmes as these will provide the basis for future innovation and ensure that crippling skills gaps are avoided. Therefore, commitments should be made for an increase in expenditure per employee for education and continuing vocational training (ETUC Resolution December 2010: <http://www.etuc.org/a/8067>).

7. How can companies and their workforces be encouraged to engage in early and adequate preparation of restructuring processes favouring acceptance of change? What best practices exist in this field?

Giving workers a voice and place in strategic decisions is a precondition to socially-responsible restructuring, meaning a key role for information, consultation and participation. The strengthening of worker rights to information, consultation and participation is fundamental.

The rights of information, consultation and participation in restructuring and particularly in the case of a change of ownership must be improved to ensure adequate ‘voice’ for workers and opportunities for trade unions to negotiate fair solutions on their behalf. This process should take place in a context of upward harmonisation.

Existing legal instruments on information, consultation and participation must be fully respected and enforced, with efforts made to ensure coherence. Employers which do not respect these instruments should be sanctioned effectively.

In the event of merger control procedures, DG Competition should take decisions on the basis of a number of different aspects and worker involvement, namely those related to employment and industrial policy. This confirms the need for better interaction between the relevant EU policies when designing an appropriate strategy for managing restructuring.

A stronger participation of workers in strategic business decisions which are often taken at European or global level is necessary. The current crisis must be considered as opportunity to strengthen worker involvement to strengthen the long-term viability and sustainability of workplaces. Furthermore, corporate governance rules should ensure managerial autonomy to avoid an over-emphasis on the short-term demands of shareholders (see Resolution December 2011: <http://www.etuc.org/a/9425>).

There is a key role of collective bargaining within a future European legal framework. To reflect the increasing importance of transnational restructuring, the Commission should finally propose the creation of a European legal framework for transnational collective bargaining and agreements at enterprise level or sectoral level in order to support companies and sectors (public and private) handle challenges dealing with issues such as work organisation, employment, working conditions and training.

Thirdly, trade unions do not resist change, as long as it is justified, negotiated and well-managed in a socially responsible way. What the ETUC will always resist is a scenario in which the negative consequences are borne exclusively by workers, whilst a significant proportion of managers who have failed to live up to their responsibilities receive a 'golden handshake' in return.

As the very systems cushioning workers from the brutal impact of economic change are being undermined through austerity and deregulation, worker representatives are increasingly considered only as a means of ensuring the acceptance of change. On the contrary, it is only through consistent and stronger worker participation that change can be managed in a socially acceptable manner, trust is nurtured and anticipation policies can develop.

Crucial to that trust and policy framework are active labour market policies, social protection and support measures. Any restructuring framework must include support mechanisms for workers who fall victim to economic change. These mechanisms must be clearly defined, both prior to the restructuring process itself, throughout that process and by monitoring it over an appropriate period of time in a bid to analyse the sustainability of the steps taken. These steps should include job cuts as a last resort, an active search for alternative solutions to redundancy, tailor-made measures in the areas of job counselling, training, support in finding a new job, placements in another company, support for the creation of new activities with access to necessary loans, adequate social protection during unemployment and a job search period. All this with a view to promoting geographical and career mobility ensuring non-discrimination. Good practice examples include the tools of 'redeployment taskforces' which are already used in various member states to support workers. These measures should be integrated into the EU legal framework to ensure that all workers may benefit across Europe and should be co-financed by the EU's Structural Funds where needed.

8. To what extent can mutual trust and shared diagnosis play a role in good management of restructuring? How can this be promoted within companies and in broader contexts?

It is only through consistent and stronger worker participation that change can be managed in a socially acceptable manner, trust is nurtured and anticipation policies can develop. An absence of dialogue can have ruinous consequences, as can be seen from Eurofound data on restructuring and workplace health as well as recent suicide cases in some prominent companies.

It is known there is a link between restructuring and the incidence of health problems in both 'leavers' and 'survivors'. The MIRE ESF project, the HIREs, 'Psycho-Social Risks, services and social dialogue' and HIREs+ DG Employment-supported projects, have brought together evidence from the private sector to suggest the negative health impacts of restructuring may be mitigated through employee involvement in the processes of change and by employers taking responsibility for their employees' health and future employment prospects throughout the transition period.

There are examples from across Europe of how governments and public sector employers have completely failed to take on board any of these. Pay freezes and/or cuts, job freezes or cuts and other changes to working conditions have been imposed on millions of public sector workers without any consultation or negotiation. Any mutual trust that existed before, and indeed some progress on social dialogue was observed in the years before the financial crisis, has now been totally undermined or seriously weakened.

Anticipation and preparation for change are the pre-conditions for managing change in a socially responsible way. Developing regular joint analyses on the situation of a plant, company, sector or region can provide a key means of generating and focusing this dialogue, improving mutual understanding and finding innovative solutions. This demands an equalizing of the balance of power between employer and worker through measures to ensure worker representatives have access to expert and union support. Since this was one of the key improvements of the revision of the EWC directive in 2007, this right should be extended to all EU information and consultation norms.

Despite the existence of good national legal tools and practices (e.g. GPEC in France) there is a need to go beyond the national level and develop a joint approach at European level. With ongoing globalization and European market integration, it is becoming more and more difficult to defend subsidiarity approaches defending national provisions. As business goes global and ignores national boundaries, a rethinking of the role of workers' involvement in companies and the public sector is essential at European level.

9. What can companies and employees do to minimise the employment and social impact of restructuring operations? What role can public policies play in facilitating these changes?

The ETUC has long argued that zero unemployment should be the main goal of policies managing restructuring processes alongside the recognition that policies must deliver appropriate solutions for each and every worker.

It is known there is a link between restructuring and the incidence of health problems in both 'leavers' and 'survivors'. The MIRE ESF project, the HIREs, 'Psycho-Social Risks, services and social dialogue' and HIREs+ DG Employment-supported projects, have brought together

evidence from the private sector to suggest the negative health impacts of restructuring may be mitigated through employee involvement in the processes of change and by employers taking responsibility for their employees' health and future employment prospects throughout the transition period. Therefore, health and safety impact assessments of any restructuring plans should be developed and measures negotiated to avoid long term health impacts. Equally, the gender dimension of restructuring should be better addressed.

This demands parallel public policies and investment promoting the creation of good quality jobs, here there is a key role for strong European and national industrial and innovation policies. A stronger and sustainable European industrial policy agenda creating and maintaining jobs through significant public and private investment in R&D, innovation and infrastructure, to develop a strategic approach that goes beyond enhancing framework conditions but promotes life-cycle thinking and the need to close the ecological loop, supporting the development and diffusion of more eco-efficient technologies and fostering the development of markets for sustainable goods and services, while adjusting industry to these upcoming sustainable markets and technologies and preparing industry for greater energy- and resource-efficiency.

Public policy must also provide a safety net through active labour market policies, strong social protection and support measures.

A European restructuring framework must include support mechanisms for workers who fall victim to economic change. These mechanisms must be clearly defined, both prior to the restructuring process itself, throughout that process and by monitoring it over an appropriate period of time in a bid to analyse the sustainability of the steps taken. These steps should include job cuts as a last resort, an active search for alternative solutions to redundancy, tailor-made measures in the areas of job counselling, training, support in finding a new job, placements in another company, support for the creation of new activities with access to necessary loans, adequate social protection during unemployment and a job search period. All this with a view to promoting geographical and career mobility ensuring non-discrimination. These measures should be co-financed by the EU's Structural Funds.

10. What can companies, local authorities and all the other stakeholders usefully do to minimise the regional impacts of restructuring? How can companies affected as a result of the restructuring of another company be supported in their own adjustment process? In particular, how can SMEs be better informed and assisted in the restructuring process?

A characteristic of public debates on restructuring is that they overwhelmingly refer to cases and developments in large enterprises. When it comes to restructuring and change in SMEs little is found in the press, despite the importance of SMEs in terms of employment (over 3/4 of workforce in many countries) and number of companies (99% of European companies). This clearly limits data collection and analysis in EU instruments such as the EMCC/Eurofound. The crisis has shown the importance of addressing restructuring in supply chains and regional networks, but in sectors dominated by SMEs workers are poorly addressed in current EU policy.

It is therefore not surprising that 'silent restructuring' is increasingly one of the ETUC's main concerns over the past years – it is also one of the main reasons that a European legal framework is urgently needed to link territorial and sectoral measures on employment and skills anticipation with the majority of the workforce.

SMEs are at a disadvantage to large companies in relation to financial and other instruments for dealing with and managing restructuring. Meaning that structural change often means dismissals as other alternatives are unavailable. Once redundancy is pending, a worker in an SME has often more limited access to redeployment services and training opportunities – increasing the cost for the individual worker rather than easing the transition into another job. The development and use of regional and sectoral approaches has proved successful in a number of member states (e.g. the Italian management of ‘Territorial Crisis’ has been used to extend national provisions on support measures to SMEs on a regional basis).

Therefore a European legal framework should give a clear role to regional and local authorities. This must be complemented by an obligation on employers to cooperate with public authorities and trade unions, as experience and good practice from Scandinavia as well as France and Italy demonstrates that this is the only means of ensuring that information is delivered at the earliest possible stage allowing proper preparation of support measures and social plans.

11. What role can evaluation and reporting of past restructuring operations play in increasing knowledge and improving stakeholders’ practices?

Learning from experience and analysing the situation over time, particularly at sectoral level, are crucial to ensure that policies are achieving their aims. The promotion of sectoral skills and employment councils and observatories is essential to this end. This experience should be fed into the improvement of European institutions tools in the field, notably the European Monitoring Centre on Change, which despite its initial role is currently only seen as a limited aid for social partners engaged in restructuring and anticipation. European Restructuring Forum are another useful tool, however once good practices are identified political will must be engaged to ensure they are implemented or adapted in other countries. This has not been the case without a legal framework, but these elements could usefully be integrated into a legal framework, e.g. by implementing the Gyllenhammar report’s recommendation on pressing major companies and public sector employers to publish a “report on change management”. Ideas of regional reporting could be developed to ensure the SME-dimension is represented adequately.

12. What role social dialogue could play in better disseminating and encouraging best practices for the anticipation and management of restructuring?

Social dialogue has been the main vehicle for disseminating good practices in the past decade. This should undoubtedly continue to be a key tool, but must be complemented by an improvement in the regulatory framework. Under the guise of economic governance, there is a wholehearted attack on industrial relations, with challenges to the Labour Codes and basic labour and social rights in many countries, and a concerted attempt to decentralize collective bargaining to the lowest level. This is a dismantlement of the key mechanisms to guarantee solidarity and social cohesion within and between member states. Social dialogue is crucial to ensure the framework for the anticipation of industrial change. It is therefore more than counter-productive to be dismantling when we should be reinforcing industrial relations structures to prepare for the changes coming in the light notably of the transition towards an energy and resource efficient model. Hypocritical demands from European institutions for more social dialogue on the one hand, while the foundations of social dialogue are undermined on the other, is deeply cynical.

13. While fully taking into account the huge differences between Member States in this regard, the Commission would like to hear the views of stakeholders (in particular

national authorities and social partners' organisations) on whether some aspects of the employment protection systems need to be reviewed in the light of this intended transition towards anticipation and proactive protection of employment.

Strong and effective employment protection systems, together with stable industrial relations as a centre element, are crucial to ensure fair transitions in the labour market. Any attempt to further deregulate the labour market under the guise of the Commission's flexicurity or restructuring initiative will be strongly opposed by the trade union movement. Measures are urgently needed to reduce precarious work and generate new jobs to counter the rising unemployment in Europe. Supply-side labour market policies do not create jobs. Reducing workers' protection further will not create a more proactive strategy on anticipation but increase insecurity and resistance to change.

The role of regional and local authorities

- 14. How can a supporting role be encouraged for public authorities, particularly at regional level, in anticipation processes, as well as in particular restructuring events, taking into account differing national traditions regarding the involvement of public authorities in company-level processes?**

Public authorities are crucial actors in ensuring the coordination of anticipation strategies at different levels, the engagement of both sides of industry, developing longer term strategies for regional and local economies together with stakeholders, and ensuring the coherence between employment creation policies, skills anticipation and support measures for workers affected by restructuring.

The Commission should also recognise more broadly the role public authorities not only as a supporting actor, but also public authorities' role as a key employer at different government and sectoral levels. Public sector restructuring – currently the strongest wave of restructuring in the EU through unilateral austerity measures – should also be foreseen within a framework of socially responsible restructuring and anticipation.



EU public procurement framework – ETUC position

Adopted at the Executive Committee on 6-7 March 2012.

1. In December 2011, the Commission adopted the revised framework for public procurement comprising a general directive on public procurement, a specific directive applying only to water, energy, transport and postal services, and a directive on the award of concession contracts.
2. The ETUC deplores that the aim to better integrate social and environmental considerations in public procurement has not been met. The Commission has favoured a voluntary approach meaning that it would be optional for public authorities to take social and environmental considerations into account. The Commission has also failed to address the incompatibility between EU law and ILO Convention 94, which is a result of the Rüffert case. The public procurement rules should support the promotion and implementation of the Convention. They must ensure that national labour laws and applicable collective agreements are fully respected. The ETUC calls on those Member States that have yet to ratify the Convention to do so as soon as possible. In order to avoid abuses of working conditions, a system of joint and several liability must be introduced that clearly stipulates that the whole subcontracting chain is jointly held liable regarding pay and working conditions, social security, fundamental rights, health and safety and training.
3. The Commission's proposals do not contain any guarantees to uphold or improve the quality of services. The ETUC cannot accept that the award of public contracts shall continue to be based on the lowest cost criterion. Awarding contracts on the basis of the "most economically advantageous" criterion provides sufficient guarantees that a tender is assessed both on its economic and social merits.
4. The ETUC believes that it is necessary for local authorities to enjoy wide discretion over the organisation and delivery of public services. They must be able to provide public services directly to their citizens. A wide interpretation of in-house arrangements is therefore important.
5. The ETUC welcomes the recognition that social services cannot be treated the same way as other public services and are thus subject only to transparency and non-discrimination principles. However, compliance with labour law and collective agreements must also apply to the procurement regime for social services. Furthermore, social security and trade union services must be excluded since they do not constitute services within the meaning of EU law.
6. The ETUC does not believe that there is a need for a specific directive on concessions. Contrary to the stated objectives, it increases legal uncertainty for public authorities. The scope is vague and the relationship with the two other procurement directives is not clear. It raises concerns about the ability of public authorities to organise key sectors in a social

and sustainable manner.

7. Finally, the ETUC renews its demand for a moratorium on liberalisation in the absence of a full and comprehensive evaluation of the impact of the EU measures to date.

Annex:

Explanatory memorandum

Background

1. In January 2011, the Commission published a Green Paper on the modernisation of EU public procurement policy. The ETUC response emphasised the responsibility of public authorities to use public money to promote cohesive social and economic development, good quality employment and quality services, goods and works¹. Following the Ruffert case, there is great uncertainty as to what extent contracting entities can stipulate a full equality principle between all workers on the same territory. This makes respecting ILO Convention 94 difficult in those Member States which have ratified it, and leaves the door open to social dumping throughout the EU. The ETUC also underlined that public procurement is a choice, not an obligation and that, in particular, local authorities must enjoy wide discretion over the organisation and delivery of public services.
2. Following the Green Paper, the Commission published in December 2011 a package for the revision of EU rules on public procurement. This package is composed of a proposal for a general Directive replacing Directive 2004/18/EC on public procurement², a Directive on procurement by entities operating in the water, energy, transport and postal services sectors ('the utilities Directive') replacing Directive 2004/17/EC³, and a Directive on the award of concession contracts⁴.
3. Although each of these proposals contains specificities linked to their respective scopes, they seek to pursue two objectives: increasing the efficiency of public spending and allowing better use of public procurement in support of common societal goals. In particular, the ETUC welcomes the second objective as the current prevailing approach is almost exclusively based on economic considerations. Nonetheless, the content of the proposals falls short of the social objectives and important improvements are needed to guarantee the respect for labour law and to ensure quality public services.
4. Although the ETUC supports the principles of transparency and non-discrimination, we are not convinced of the need for a specific directive on concessions covering the right to exploit works or services. Contrary to the stated objectives, it increases legal uncertainty for public authorities. The scope of the proposed directive is unclear and the relationship with the general directive on public procurement is not explained. Furthermore, the ETUC is concerned that the directive would interfere with the right of public authorities to organise public services the way they see fit.

¹ See <http://www.etuc.org/a/9260>

² COM (2011) 896 final

³ COM (2011) 895 final

⁴ COM (2011) 897 final

Respect for decent wages and working conditions

5. It is essential that all the parties in a public procurement procedure are bound by national labour law and locally applicable collective agreements. However, the proposed directives contain very weak provisions on social considerations and as a result do not provide sufficient safeguards against unfair competition in working conditions. In addition, in many Member States national and sectoral collective agreements are being attacked by recent labour market reforms establishing the precedence of companies' agreements over national/sectoral ones. This is an additional factor that put workers at risk of having their pay and working conditions undercut by lowest price competition in public procurement.
6. In the Commission's proposals, the possibility to integrate social and environmental considerations into public tendering processes remains entirely optional for the contracting entities. The ETUC rejects this "voluntary" approach and urges the EU institutions to introduce legally binding obligations. Conditions for contract performance must include the respect of all the terms and conditions of employment in the place where the work is carried out. Where the price or cost charged by the tenderer appears to be abnormally low, the prospective tenderer must provide evidence of compliance with such terms and conditions. In the course of the performance of the contract, any violation of the working conditions must automatically lead to the exclusion of the contractor.
7. Concerning the level of protection, the Commission considers that only EU law and core ILO Conventions are to be taken into account. The recitals even mention that only considerations linked to "health, and social integration of disadvantaged person or members of vulnerable groups" are admissible and that such considerations should stay within the limits of the Posting of Workers Directive⁵. Such a minimalist approach leaves the door wide open to social dumping. EU labour law, and in particular the Posting of Workers Directive, does not harmonise labour laws in the Member States but merely lays down minimum standards aimed at ensuring coordination between the various national systems. EU law on its own cannot prevent unfair competition in working conditions.
8. For the ETUC, the principle of equal treatment at the workplace is fundamental. The EU institutions should ensure that the EU public procurement framework respects all the terms and conditions of employment in the place where the work is carried out. Applicable terms and conditions should be understood as the entire national labour law as well as collective agreements. This is a necessary condition to ensure the compatibility between EU law and ILO Convention 94. It stipulates that conditions under public procurement contracts should not be less favourable than those established for the same work in the same area by collective agreement or any similar instrument. 10 EU Member States have ratified the Convention. The EU has an obligation to ensure that all Member States can continue to adhere to the Convention, promote its ratification and implementation, and solve any ambiguities in EU legislation that might stand in the way⁶.
9. Nevertheless, these conditions can be easily circumvented in case of complex and unsupervised chains of subcontracting. In order to promote transparency, contracting authorities must therefore require tenderers to indicate in their tenders any proposed subcontracting (this is only optional in the Commission's proposal). Furthermore, a system of joint and several liability must clearly stipulate that the whole subcontracting

⁵ See for example Recital 41 in the proposal for public procurement.

⁶ See ETUC Resolution on "conditions for free movement: more protection of workers and fair competition" <http://www.etuc.org/a/6212>.

chain is jointly held liable as regards pay and working conditions, social protection/security, fundamental rights, health & safety and training.

10. It should also be noted that the proposals offer contracting entities the possibility of requiring social labels to certify environmental, social or other characteristics. The ETUC considers that such labels may provide useful information about the behaviour of contractors (for example their promotion of apprenticeships and investment in training). However, labels cannot on their own provide sufficient guarantees regarding the respect of working conditions and environmental requirements. Furthermore, there is not enough recognition in the proposals regarding applicable standards that can be specified in tenders such as quality standards which have in some cases proved to have a positive impact in terms of wages, working conditions and workload especially when they have been included in collective agreements.

Quality services

11. The ETUC has always been critical of the fact that EU public procurement rules essentially rely on economic considerations regardless of the consequences for the quality of services. In particular, judging tenders against the lowest cost criterion cannot guarantee quality and sustainability. Awarding contracts on this basis frequently results in fraud, breaches of regulations and poor quality services. The ETUC therefore urges the EU institutions to abolish the “lowest cost” award criterion. Awarding contracts on the basis of the “most economically advantageous” criterion (MEAT) provides sufficient guarantees that a tender is assessed both on its economic and social merits.
12. Furthermore, the current EU public procurement rules ignore the positive contribution that workers can make to the procurement procedure. The ETUC demands that the EU legislator clarifies in the proposed directives that the award of contracts by public authorities does constitute a transfer within the meaning of the Transfer of Undertakings Directive⁷. ECJ case law should be codified in the directives so that public authorities have a clearer understanding of the applicable rules.
13. The Transfer of Undertakings Directive involves a meaningful information and consultation procedure about a proposed “transfer”. Worker representatives should therefore be informed and consulted about the potential impact of a future tendering process. This dialogue should take place both with the existing and the prospective employers. In this regard, the Commission’s proposals to introduce new procurement techniques are interesting. It would be possible for contracting entities to rely on a two-step procedure, so that dialogue/negotiations with pre-identified tenderers can take place before the awarding of the contract. Worker representatives must be able to take an active role in this exchange.
14. The Transfer of Undertakings Directive also prohibits any change of existing working conditions, including dismissals, which are directly connected to the transfer. It is extremely important that this obligation is enforced in the context of public procurement. Successive tenders are the source of great uncertainty for the workforce and, as a direct result, are prejudicial to the continuity of a service.

⁷ C-173/96 and C-247/96 *Sanchez Hidalgo*, C-343/98 *Collino*, C-172/99 *Oy Liikenne*, C-340/01 *Abler*

15. The Commission's proposals contain new provisions regarding "life-cycle" costs. This should allow contracting entities to take into account all stages of the existence of a work or service, from raw material acquisition until disposal, clearance and finalisation. The costs to be taken into account do not exclusively relate to monetary expenses but also environmental costs (greenhouse gas emissions and climate change). The introduction of life-cycle costing may constitute a further step away from a purely economic approach, but the social dimension needs to be explored further. Precarious work, long working hours, poor health and safety, lack of investment in skills etc also have external costs that need to be taken into account.

The role of local authorities

16. The Treaty of Lisbon recognises public services as an indispensable instrument of social and regional cohesion. The Protocol on Services of General Interest particularly emphasises the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising services of general interest as closely as possible to the needs of the users. This is necessary to ensure that public authorities can exercise their responsibilities in ensuring citizens' fundamental rights. The new EU public procurement rules must respect these principles.
17. The two proposed public procurement directives do not include in-house arrangements. This is important as public authorities should be able to provide public services directly to their citizens. The ETUC calls for a wide interpretation of the notion of in-house, so as to clearly cover public-public cooperation and cooperation with non-profit making providers who meet general interest criteria.
18. The Commission's proposals also exclude social services from the general framework and subject them to a lighter regime, imposing only the respect for basic principles of transparency and equal treatment. The proposals list "health and social services, administrative, educational, healthcare and cultural services, compulsory social security services, benefit services, other community, social and personal services, services furnished by trade unions, and religious services" as social and other specific services which would benefit from this lighter regime. The recognition that social services cannot be assimilated into ordinary economic services is welcome. However, the proposed directives bring under procurement rules – albeit lighter ones – services that have nothing to do with the internal market. The references to social security services and trade unions services must be removed.
19. The ETUC agrees that public authorities should have as much margin of manoeuvre as possible to organise social services. This does not mean, however, that social considerations should be ignored. It is therefore of utmost importance to ensure that the respect for working conditions as well as the quality of services also apply to social services.
20. Overall, the very notion of social services is a highly contentious issue. Concepts vary greatly not only according to national traditions but also in various EU policy fields (eg services directive and state aid rules). The ETUC renews its calls for a specific EU instrument on social services.
21. The proposed directive on the award of concession contracts is problematic with regard to the subsidiarity principle and the necessary discretion to be left to public authorities.

The ETUC does not dispute Treaty rules relating to transparency and non-discrimination. However, the directive imposes stricter obligations than the ECJ case law requirements and as such raises strong concerns about future ability of public authorities to organise key sectors in a social and sustainable manner.

22. Furthermore, the ETUC is concerned about the vague scope of the directive as well as its low thresholds. It can be seen as an encouragement to liberalise key sectors which are not always open to competition (eg water, harbour services and social services). Opening up these sectors to free competition would endanger social and ecological standards without necessarily contributing to the quality of those services. The ETUC renews its demand for a moratorium on liberalisation in the absence of a full and comprehensive evaluation of the impact of the EU measures to date.



CONFEDERATION EUROPEENNE DES SYNDICATS (CES)

Resolution

The Future of European Company Law: towards sustainable governance

Adopted at the Executive Committee on 6-7 March, 2012

The Future of European Company Law: towards sustainable governance

1. Trade unions have a fundamental interest in promoting more democracy at the workplace and sustainable EU governance. The coming years will be difficult for workers. The current economic context leads to more frequent changes in company strategies, including greater recourse to restructuring. Workers and their representatives must be given a place and a voice in these strategic decisions¹.
2. In this Resolution the ETUC calls for a radical change of approach in EU policy. EU company law currently overemphasises businesses' and shareholders' needs to the detriment of the interests of workers and other stakeholders. Furthermore, promoting regime competition and short-termism is not sustainable in the longer term. EU company law should focus on promoting a coherent, sustainable and forward-looking corporate model, including an EU framework instrument on workers' involvement. Major questions can also be raised about the real purpose and effect of the current better regulation agenda.
3. The ETUC reiterates its demand for a meaningful consultation on policy orientation. A more active involvement on the part of European Social Partners in the shaping of EU company law policy would greatly contribute to unblock numerous deadlocks. Online consultations and Green Papers are not an adequate substitute for the specific consultation of the social partners, which is foreseen in the European Treaties.
4. Reforming European company law in the interests of workers and other stakeholders will not be an easy task. The ideologies of shareholder value and regime competition have fundamentally shaped the EU company law acquis. But the financial crisis has clearly demonstrated the need for change.
5. However, Social Europe and a sustainable economy cannot be realized simply by hoping that the crisis will pass soon and the economic recovery will put us on the right path. The demands discussed above, together with the list in the annex of existing EU company law directives and where they need to be reformed, provide a roadmap for fundamental change in how our companies operate and are regulated. In order to achieve a democratic and social Europe, it is crucial that workers and their representatives are not excluded from the political process. The relationship between companies and society has become unbalanced in favour of the former. But companies need to serve society, rather than society serving the shareholders. A proper balance can be achieved only by fully including trade unions in the process of change.

¹ See ETUC Resolution "[Anticipating change and restructuring: ETUC calls for EU action](#)" » of 6-7 March 2012 and ETUC Resolution "Workers participation at risk: towards better employee involvement" of 8 December 2011

Annex 1:

Explanatory memorandum

Shareholder value vs the welfare of workers and other stakeholders

1. The ideology of shareholder value claims that the company is the private domain of shareholders and that workers are merely a “factor of production”. The reality, however, is that the company is a community which is dependent upon the commitment and contribution of workers as key stakeholders. Company law needs to reflect the fact that the company is a community, that workers’ interests should be placed on the same footing as shareholders, and that workers have a right to exercise “voice” within the firm.
2. Realizing this concept of a “sustainable company” requires fundamental changes in our legal and regulatory framework. Company law needs to take the long-term interests of workers and other stakeholders into account, not just the interests of shareholders. The transparency of companies, particularly with regard to their social and environmental impact, needs to be improved through binding standards for disclosure. Executive remuneration plans are very important instruments for governance and should be more clearly nailed down with regard to disclosure, explanations, limited bonuses and tax accountability. Executive remuneration must not be based on short term movements in share price. Finally, our financial markets need to be tamed so that “casino capitalists” are replaced by long-term responsible shareholders.

Change the fundamental objectives of EU company law

3. Instead of promoting a harmonising approach, the Commission is pursuing a regulatory competition agenda based on basic minimum requirements at EU level and a mutual recognition principle. By introducing a 1 euro minimum capital requirement and very light registration requirements, the Commission’s proposal for a European Private Company² illustrates well this minimalist approach.
4. The consequences of this regulatory competition agenda run against the spirit of European integration. National company laws, where they provide for fairness and social justice, are under the fire of EU law and the pressure is increasing towards more regime competition amongst company laws to provide the highest corporate benefits.
5. The ETUC considers it unacceptable for EU law to promote a race to the bottom agenda. A major change of approach is urgently needed so as to restore the fundamental objectives of sustainable EU company law: to prevent regime competition

² COM (2008) 396/3. See ETUC Resolution of October 2008: <http://www.etuc.org/a/5463>

and to promote a forward looking model at EU level taking into account the necessity of high level of quality employment and social progress.

Preventing regime competition

6. The ETUC believes that increasing company mobility can be beneficial to the European economy to the extent that it responds to justified business needs, linked to genuine organisational reasons. But cross border mobility cannot be treated as an end in itself, which means that EU law must put in place the necessary safeguards to prevent the setting up of artificial structures, such as “letter box companies”, designed to evade the applicable national rules.
7. The choice of the **registration place** is an important step in the life of businesses as it determines the main national regime applicable to the company. Against this background, the ETUC considers that the ‘real seat’ principle should be a core principle of EU company law. However, the dominant philosophy is to allow companies to establish their registration seat in a different Member State than the place of real business. For the ETUC, this artificial division has no justification under EU law. It leads to regime competition for all the wrong reasons, including in particular tax optimisation and circumventing existing workers’ rights.
8. The ETUC therefore urges the EU legislator to devise the appropriate rules so as to ensure that the registration place is linked to the place of main business.
9. Furthermore, the ETUC is increasingly concerned by **transfers of registered offices** in the Union. European Court of Justice rulings have made such transfers very problematic, in particular from a regime competition point of view. In the absence of an express will from the EU legislator, the Court has strengthened the possibility for companies to choose the corporate regime of any Member State.
10. There have been initiatives to approve a specific company law Directive dealing with such transfers (the ‘14th company law Directive’). The ETUC is very conscious of the fact that such a Directive would lead to an increase of cross-border transfers within the Union, with the accompanying risks of delocalisation and watering down of workers’ rights. A number of safeguards are therefore indispensable so as to limit transfers of registered offices to cases of justified business needs, linked to genuine organisational reasons. In particular, the following pre-conditions are essential for ETUC support for a 14th Directive:
 - As highlighted above, the ‘real seat’ principle is indispensable;
 - there must be a meaningful information and consultation procedure about the proposed transfer. Effective sanctions must be put in place so as to guarantee the respect of this obligation;

- the provisions governing workers' involvement (information, consultation and participation) must be in line with the mechanism of the SE Directive³.
11. A **substantial capital base** for companies is considered to provide a basic level of protection for workers and other stakeholders when companies run into financial difficulties. Currently however, with the exception of financial companies and public limited companies, there is no EU level minimum capital requirement. This has allowed a “race to the bottom” between Member States, many of which have been lowering capital requirements in an attempt to attract foreign business. The EU should impose a minimum capital requirement for all kinds of companies which will provide a reasonable level of protection to workers and other stakeholders if the company they are working for or doing business has financial problems.

Promoting a coherent and sustainable model

12. Overall, the ETUC considers it necessary to start discussions on a **framework instrument on workers' involvement**. The exercise should not be about rethinking national models on information, consultation and participation but to build a sustainable European company law model. Any company which decides to benefit from the provisions of European company law (eg: a European Company, a European Cooperative Society, a European Private Company, a company moving across the EU in line with the cross border merger Directive etc.) should at the same time adhere to certain shared values⁴.
13. Furthermore, the large EU company law acquis is disjointed. In their quest for the 'lightest regime', companies are not only able to pick and choose national legal forms; they can also put EU instruments in competition with each other.
14. Considering the current approach to EU company law, the ETUC is of the view that a codification of EU company instruments is a perilous exercise, which may have damaging consequences. There is, however, a clear need to create in the short term **more convergence between the various EU company law Directives**. For instance:
- the Takeover Directive 2004/25/contains very weak provisions on workers' involvement. This Directive must therefore be reviewed with a view to align its provisions on workers' rights with other pieces of the Community acquis.
 - the relevance of the distinction between listed companies and private companies which is currently made by EU law must be reassessed. For instance, the protection

³ Directive 2001/86/EC supplementing the statute for a European company with regard to the involvement of employees

⁴ See previous ETUC resolution at: <http://www.etuc.org/a/8684>

afforded by the transfer of undertakings Directive 2001/23/EC must also be available to workers in listed companies.

- the worker involvement provisions in the cross border merger Directive 2005/56/EC must be aligned to those of the SE Directive 2001/86/EC
 - whenever a company envisages relying upon an EU company law instrument, there should be a mandatory assessment of the impact upon workers (eg: merger, division, transfer of registered office, take over, etc.).
 - Similarly, where new EU company law initiatives are being envisaged, the ETUC urges the Commission to reflect carefully on a coherent approach. The SPE proposal in its current form should be withdrawn as it creates intolerable competition with both the SE legislation and national company laws. Also, the provisions in the existing acquis must serve as a point of departure for an initiative on cross border transfer of registered seats.
15. The financial crisis demonstrated once again that **auditing** firms fail to adequately play the role of “gatekeepers” that they are supposed to. The extent to which companies and financial institutions receiving a “seal of approval” from an auditing firm ran into difficulties in the crisis and thereafter shows that this failure was systematic rather than exceptional. Core causes of this failure include: significant conflicts of interest through the simultaneous provision of auditing firms of both auditing and certain types of consulting services, an oligopoly among large auditing firms, flaws in current accounting standards, and a focus on historical (rather than forward-looking) performance and on data of interest mainly to shareholders.
16. The Commission’s recent proposals on auditing⁵ need revision in order to achieve a number of goals: encouraging a forward-looking focus which includes a judgment of key risks and the sustainability of the business strategy, inclusion of more information relevant for workers and other stakeholders, respect for two-tier board systems and access to audit reports in different national systems of worker involvement in the EU, and removing conflicts of interest that would endanger independence in the auditing process, in order to discourage a rubber-stamp approach to auditing.
17. The current regime of **company reporting** is characterized by a focus on listed companies and the needs of their shareholders. Workers and other stakeholders need and should receive the relevant information, such as financial information, and the social and environmental impact of companies. In the rare cases where information is disclosed, it is frequently done so without reference to external standards. Furthermore, when disclosure is done on a “comply or explain” basis, explanations are

⁵ Proposed Regulation on statutory audit of public interest entities (COM (2011) 779 final) and Proposed Directive amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (COM (2011) 778 final)

frequently lacking or inadequate. The lack of adequate information to workers and other stakeholders, especially in smaller sized companies, can prevent the detection of financial difficulties in the company. The spirit of the general framework Directive on information and consultation (Directive 2002/14/EC) must be respected.

18. The ETUC judges the current disclosure regime as “poor” and **demand**s reporting by a larger spectrum of companies (nonlisted as well as listed, and not only large companies) on the basis of common standards which allow comparisons over time and between companies. Mechanisms for improving the credibility of this information include external auditing and trade union verification (e.g. of labour standards in supply chains).

Simplification of company law

19. Under the headline “minimizing the regulatory burden for small and medium-sized enterprises (SMEs) and adapting EU regulation to the needs of micro-enterprises” the European Commission has accelerated its efforts to deregulate a large part of the European economy. In the area of company law the Commission has proposed waiving requirements for SMEs (particularly for micro-enterprises) defined by the 4th Company Law Directive (dealing with accounting requirements) and the Transparency Directive.
20. SMEs are estimated to account for approximately two thirds of private sector employment in the EU, thus the potential impact of deregulation on employment and working conditions is huge. The owners of many of these companies enjoy the privilege of limited liability, which limits the claims that stakeholders can make in the event of company failure. The ETUC is adamant that better regulation does not necessarily mean less regulation. Necessary safeguards and rights for workers and other stakeholders should not be abolished in the name of reducing costs.

ANNEX 2: THE WEAKNESSES OF THE CURRENT EU COMPANY LAW ACQUIS

REFERENCES	TOPICS	ETUC COMMENTS
<u>Directive 2009/109/EC</u>	As part of the simplification initiative, under certain conditions reduces reporting and documentation requirements in case of divisions and mergers	Reporting and documentation requirements in general need to be strengthened, particularly regarding information and consultation rights for workers. (NB : all Directives which relate to company strategy and restructuring should contain a provision requiring a thorough impact assessment of the proposed measure on the workforce)
<u>Directive 2007/63/EC</u>	Extends option for shareholders for an exemption from requirement for an independent expert's report contained in the cross border merger directive to purely domestic mergers	<ul style="list-style-type: none"> - Rights to an independent expert's report should be extended to employees - Other information and consultation rights should be strengthened
<u>Directive 2007/36/EC</u>	Shareholders' rights	<ul style="list-style-type: none"> - Shareholder responsibilities should be defined, not just shareholder rights - The voting records of investors should be made publicly available - Accountability should be ensured along the investment chain, so that investment managers and proxy agencies act in the interests of ultimate owners . - Enough transparency should be created so that companies can identify their shareholders, including those with short interest and borrowed

			voting rights.
Directive 2006/68/EC	Formation and capital of public limited liability companies		Provisions on minimum capital requirement need to be strengthened.
Directive 2005/56/EC	Rules on cross-border mergers		<ul style="list-style-type: none"> - Workers' rights need to be aligned to the provisions of the SE Directive. In particular, provisions on information and consultation must be included and the provisions on participation must be identical to those of the SE Directive - Requires impact assessment of envisaged financing for the merger
Directive 2004/25/EC	Rules for takeover bids		<ul style="list-style-type: none"> - Requires stronger rights for workers, including in particular application of the transfer of undertakings Directive, and meaningful information and consultation about the proposed take over - Requires more transparency on the take over procedure - Require prior impact assessment of the take over
Directive 2003/58/EC	Modernization of the Accounting Directives		More transparency should be required in the form of binding standards for social and economics reporting, not just reporting on financial performance.
Directive 2001/86/EC	SE directive		<ul style="list-style-type: none"> - Phenomenon of shelf SEs should be investigated, - Adaptation clause needs to be included so that negotiations on workers' involvement are triggered in case of significant change in the size

		<p>and/ or repartition of the workforce</p> <ul style="list-style-type: none"> - Requires setting of a register at EU level, which would allow more transparency regarding business activities and the size of the workforce
Eight Council Directive 84/253/EEC	Auditing	<ul style="list-style-type: none"> - Requires removing of conflict of interest of auditing firms with both auditing and consulting business - Access of employee representatives to auditing reports - Requires forward-looking statements
Seventh Council Directive 83/349/EEC Fourth Council Directive 78/660/EEC	Accounting	<ul style="list-style-type: none"> - Must be more stakeholder oriented - Access of employee representatives to the information
Sixth Council Directive 82/891/EEC	Division of companies	<ul style="list-style-type: none"> - Requires reference to transfer of undertakings directive - Requires prior impact assessment
Directive 2011/35/EU	Mergers of public limited liability (amends 3rd directive)	<ul style="list-style-type: none"> - Requires reference to transfer of undertakings directive - Requires prior impact assessment
Second Council Directive 77/91/EEC	Formation and capital of public limited liability companies	Requires strengthening minimum capital requirement
Directive 2009/101/EC	Registration/power of organs/nullity	<ul style="list-style-type: none"> - More transparency in registration and basic

		<p>company information</p> <ul style="list-style-type: none"> - Improve access to (European) business register
<p>Directive 2001/23/EC</p>	<p>Information and consultation on proposed transfer of undertakings + prohibition of changes in work conditions, including dismissals, for reasons directly connected to the transfer</p>	<p>Requires extending the scope to cases of shares sales, division of companies, mergers of public limited liability companies</p>



ETUC Action Programme on Gender Equality

Adopted at the Executive Committee on 6-7 March 2012

Introduction

The EU has made significant progress over the last 50 years in promoting greater equality between women and men in society and in the labour market. Since its foundation EU equal treatment legislation has contributed and will contribute to equal participation of women and men in Europe's economy and society.

With the new mandate for the period 2010-2014 the Commission adopted different EU instruments to deal with gender equality:

- The **EU Women's Charter** strengthens EU efforts to build a gender perspective into all its policies for the next five years while taking specific measures;
- The **Strategy for Equality between Women and Men** builds on the experience of the Roadmap for Equality between Women and Men of 2006 and represents the European Commission's work programme on gender equality for the period 2010-2015 on the basis of six thematic priorities¹ ;
- The **Europe 2020 Strategy** sets a new target of 75% women and men to be employed by 2020 and ambitious objectives on employment, innovation, education, social inclusion and climate/energy.

Undoubtedly, the EU Commission has favoured a political approach that focuses more on awareness rising activities and exchange of good practices instead of improving the existing legislative framework on gender equality.

Probably the most relevant legislative initiative undertaken in the field of gender equality concerns the revision of the Maternity Protection Directive, currently blocked at the level of the Council, following the adoption of the European Parliament report in October 2010. In 2011, Commissioner Reding also announced her intention to take action to improve gender balance in company boards. Other non-legislative initiatives that concern gender equality are also foreseen in the European Commission work programme 2012-2013: a consultation of the European social partners on the review of the Directive on equal pay and a second stage consultation on reconciliation between work, family and private life.

Over the last years, the ETUC has repeatedly called upon the EC to take a more ambitious and better integrated approach towards gender equality. The situation of women in the labour market and in society is still hugely unbalanced and persistent gaps exist between women and men within the EU 27 and candidate countries:

¹ The six areas of action of the EU Strategy for the period 2010 – 2015 are: (i) equal economic independence; (ii) equal pay for equal work or work of equal value; (iii) equality in decision-making; (iv) dignity, integrity and ending gender-based violence; (v) gender equality in external actions; (vi) horizontal issues: gender roles, legislation and governance. For more information see: <http://ec.europa.eu/social/BlobServlet?docId=6568&langId=en>

- The **employment rate** for women has increased from 51% in 1997 to 62% in 2011, with large differences remaining between member states (between 39% and 75%);
- Female employment has grown mostly in highly feminised jobs and sectors, such as public and private services. Women **work part-time** more than men (accounting for over 75% of part-timers) and are more often employed on fixed term or temporary agency contracts;
- The impact of **parenthood** on labour market participation is very different for women and men - only 65.6% of women with children under 12 work, as opposed to 90.3% of men;
- The **gender pay gap** between women and men in Europe is around 17% on average, with a variation from 5% to 31%. In many member states the gap has not narrowed over the last ten years and in several is even increasing;
- More than 70% of **low-wage earners** in Europe are women and in most EU member states, 17% of women experience **poverty** compared to 15% of men. Older women are particularly at risk of deprivation;
- Nearly 60% of **EU university graduates** are women, nevertheless they are lagging behind in decision making positions at political and economic level. Women make up 12% of the supervisory boards of the largest publicly listed companies and only 3% of the boards' presidents are women;
- In 2005 34% of men have received **continuous vocational training** in enterprises compared to 31% of women;
- One woman in five in Europe has been subjected to **domestic violence** and one out of two reported some form of **sexual harassment** in the workplace;
- Nearly **45% of ETUC members are women**. This account for roughly 38 million female trade unionists. However, their representation in trade unions' decision making bodies and positions is far from proportionate and progress is very slow.

The current economic crisis risks further undermining these gloomy findings, if inadequate policy action is undertaken to tackle gender gaps.

The effects of the economic downturn on policies related to gender equality are beginning to emerge. Budget cuts have severely affected public expenditure, with public services, such as education, training and social care, suffering mostly, as well as the users of those services, who are in the large majority women. Public sector workers (predominantly female) are hit in quantitative and qualitative terms in various member states. Changes in pension provisions through restrictions on caring credits are promoting further inequalities between women and men.

The ETUC strongly believes that there is an urgent need to address gender gaps in the labour market and avoid erosion of recent measures enacted to support gender equality. Investments to re-launch growth are required and they should bring resources in highly feminized sectors.

Gender Equality continues to be a priority for the ETUC

At the 2011 Athens Congress, the ETUC committed itself to continue to place the gender dimension high on its agenda and to pursue the objectives set in the Gender Mainstreaming Charter adopted at the Congress in Seville.

The ETUC completely shares ITUC statement made at their 2nd World Congress in Vancouver in June 2010: *“Cultural, economic, social and religious barriers must be identified, condemned and overcome in order for women’s human rights to be respected and fully implemented everywhere. As gender discrimination frequently interacts with other forms of discrimination such as age and gender identity, policies and programmes should be put in place to address the multiple forms of discrimination against women and a cross-cutting approach on gender should be adopted.”*

Trade unions can make gender equality a reality. We are key players in promoting social justice and combat discriminatory and unlawful behaviors at work. We also have a unique role in promoting social and sustainable change, not only at work but also in the society. We know that trade unions’ commitment to fight against discrimination between women and men requires a strong political will which implies the realization of both strategic and organisational actions. We are also aware that this investment is indisputable if we want to counteract the dangerous trends that Europe is facing, with the rise of inequalities at all levels, the mounting of precarious work and the risk of declining working conditions for women and men.

ETUC therefore believes that more needs to be done to achieve EU2020 objectives and integrated strategies are required to promote gender equality in the labour market and in trade unions.

In order to achieve greater gender equality the ETUC follows a dual approach by both implementing gender mainstreaming and initiating specific measures (policy action, projects, awareness-raising activities, etc.) in the field of gender.

Besides the Charter on Gender mainstreaming, the ETUC adopted two equality plans in the past (in 1999 and 2003) as well as various positions and resolutions in order to: foster reconciliation of work, family and private life (2007); reduce the gender pay gap (2008); improve maternity protection at EU level (2009); ensure equal treatment between men and women engaged in a self employed activity (2009); enhance gender balance in trade unions (2011)².

Gender equality was addressed by the ETUC in the context of the cross-industry EU social dialogue. A Framework of Actions on gender equality was negotiated in 2005 in which social partners advocated on occupational segregation, women in decision-making, work-life balance and equal pay, and an evaluation report was adopted in 2009. In their last work programme, covering 2012 – 2014, the EU social partners also reaffirmed their willingness to continue to act on the Framework of Actions priorities and agreed that further joint action is needed to address remaining inequalities.

² See ETUC website: <http://www.etuc.org/r/48>

Achieving gender equality in the labour market and society remains an imperative for the ETUC. Concrete measures are required to bring change and this Action Programme is intended to set ETUC priorities in the area of gender equality with a view of an evaluation at the mid-term mandate Conference. It is addressed to all national confederations, European trade unions' federation and to ETUC itself and it aims at pursuing the following, inter-linked, goals where trade union action is needed:

- 1. Implementing gender mainstreaming into all ETUC policies**
- 2. Achieving equal pay between women and men**
- 3. Eliminating gender representation gap in decision making bodies**
- 4. Promoting the combination of work, family and private life**
- 5. Addressing the link between domestic violence and workplace rights**

The Action Programme sets out ways in which the objectives can be met, measurable and time-framed targets, follow-up procedures and an evaluation process.

Objective 1: Implementing gender mainstreaming into all ETUC policies

Gender mainstreaming is a strong equality principle that concerns both women and men. It involves structural change, it impacts women's and men's role in public and private life, in the workplace, in the private sphere and in the society. It means assessing how policies impact on women and men, and taking steps to change policies if necessary.

Since 1999 the ETUC and its member organisations have adopted a clear commitment to incorporate the dimension of equal opportunities and of the gender perspective in all fields of policy planning and activity. ETUC members recognized that this requires the development and adoption of tools, mechanisms and guidelines and have committed themselves to put in place adequate measures to achieve this aim.

In order to re-boost trade unions' commitment to implement gender mainstreaming, the ETUC adopted a Charter on Gender Mainstreaming at its Seville Congress in 2007, where it is stated that "*Gender equality is an essential element of democracy in the workplace and in society. ETUC and its affiliates confirm their commitment to pursue gender equality as part of their broader agenda for social justice, social progress and sustainability in Europe, and therefore adopt a gender mainstreaming approach as an indispensable and integral element of all their actions and activities*". Three broad definitions of gender mainstreaming were identified and they are still valid.

Gender mainstreaming seems to be a difficult concept to implement. It needs political will, the collection of adequate gender-based statistics, adequate funds and resources and a balanced participation of women and men in decision making. Many trade unions still do not incorporate the gender dimension into their policies and actions and therefore new efforts need to be deployed to achieve this aim.

Mainstreaming gender equality in collective bargaining remains a major challenge, and demands stronger cooperation with and commitment of the industry federations especially, and sectoral and branch unions at all levels.

Integrating gender mainstreaming in employment issues is key to fighting discrimination in the labour market. However, in order to achieve equal rights it is essential to fully integrate the gender dimension also in all policy issues that are high in the EU and ETUC agenda, such as: impact of austerity measures and recovery from the crisis, economic governance, sustainable development and green jobs, vocational education and training, migration, cooperation and development, health and safety.

1. Implementing gender mainstreaming into all ETUC policies

Key actions:

- As indicated in the GM Charter, the ETUC will set the policy that every document presented to its Executive Committee must contain a gender impact assessment, and at least indicate with a short motivation if and how the gender perspective has been included.
- A set of draft guidelines to implement gender mainstreaming in trade unions leading to the publication of a brochure will be realized.
- All ETUC working groups and committees should gender-mainstream their work as well as supporting documents according to these guidelines.
- It is essential to understand the impact of the economic and financial crisis on policies that are (directly or indirectly) related to gender equality. The ETUC, with the support of the ETUI, will draw up a comparative study analysing the impact of the crisis on the differential situation of women and men in the labour market, in relation with the austerity measures undertaken, their impact in the public services and in care facilities provisions, etc.
- ETUC and its affiliates will continue to:
 - explicitly invite, support and train women to participate in collective bargaining committees and negotiating teams, including in EWC's;
 - invest in training of collective bargaining negotiators, men and women, at all relevant levels in gender equality issues;
 - include gender perspective during negotiations (pay systems and wage increases mechanisms that improve men and women, lifelong learning, leaves facilities).
- A specific gender approach will be integrated into ETUC migration policies and with regard to decent work for domestic workers. The ETUC will continue to lobby for a EU legislative framework for the protection and non-discrimination of domestic workers.

Objective 2: Achieving equal pay between women and men

The European Union from its very beginning has pursued the goal of equal pay for women and men for work of equal value. European legislation on equal pay has contributed to tackle direct discrimination between women and men as regards pay, but barriers persist to ensure that work of equal value performed by men and women is paid at the same rate. Progress in closing the gender pay gap appears to be very slow, and notwithstanding all efforts to achieve the aim of equal pay, statistics show the existence of a gender pay gap in all EU Member States; in some countries the gap is even widening. Taking into account the fact that the European Union has been taking action in this field for more than 50 years, this is a disappointing result.

The ETUC is aware that legal action alone has proved to be insufficient to tackle pay differentials between women and men and that a combined approach at different levels is needed to eliminate this persisting and complex form of discrimination.

The Action Programme adopted at the Athens Congress identified the pay gap between women and men as one of the priorities of its work for the period 2011 – 2015 and the ETUC has committed to *“support members’ initiatives to tackle the structural problems of pay inequality and the tendency for pay (for both men and women) to be lower in sectors dominated by women than in sectors dominated by men. Many occupations that are mainly carried out by women need to be revalued and the ETUC intends to assist affiliates in exchanging information on achieving this through collective bargaining and/or through using legislation”*.

A key means of tackling the gender pay gap is collective bargaining. It is also essential that trade unions raise awareness and share good practices that have been successful in reducing pay differentials between women and men in sectors and professions.

The gender pay gap is an area where action is urgently needed as there are pervasive implications on pensions and poverty levels for women.

2. Achieving equal pay between women and men

Key actions:

- The ETUC will continue to campaign for stronger EU legislation to close the gender pay gap and promote collective bargaining in this area.
- ETUC will implement a EU project to explore trade unions’ successful initiatives and barriers to tackle the gender pay gap. The project will include the following actions:
 - Compilation of initiatives adopted by ETUC member organisations to achieve equal pay, including revision of job classifications and systems of job evaluation, pay audits, successful collective agreements;
 - Assess wage penalty linked to part-time working and other forms of precarious employment patterns;

- Awareness raising activities (regional workshops and EU Conference);
 - Publication of a TU manual and brochure.
- The ETUC Women's Committee and the Committee for the coordination of collective bargaining will work together to tackle the gender pay gap. As a start ETUC member organisations of these two groups will explore together quantitative targets for the reduction of pay inequalities between women and men.
 - The ETUC and its members will contribute to the European Commission's White Paper on pensions. The link between social and employment policies will be addressed and recommendations to achieve equality between women and men in social security and pensions provisions will be put forward.
 - ETUC and its member organizations will continue to implement the recommendations addressed in the ETUC Resolution "Reducing the gender pay gap", and in particular:
 - put in place campaigns, tools, etc. in order to raise awareness on the gender pay gap at national level and in the different sectors. The EU day on equal pay could be used as a reference to mobilize members and put in place specific awareness raising activities;
 - put the gender pay gap on the agendas of the collective bargaining;
 - put in place training of negotiators, equal access to vocational training and guidelines to tackle the gender pay gap.

Objective 3: Eliminating gender representation gap in decision making bodies

The under-representation of women in leadership positions and decision making structures has been a matter of concern for the ETUC for many years. A strong case for a strategic approach to achieving gender balance in trade unions' decision-making and leadership structures as a basis for union democracy and for realising gender equality at societal, economic and political levels was through the adoption of the resolution for improving gender balance in trade unions in March 2011. The ETUC's Athens Action Programme also addresses the female representation gap in decision making bodies and commits the ETUC to build up its action to guarantee a balanced composition between men and women by the 2015 Congress in particular through quantifiable targets such as an anti-discrimination provision, stipulating that each gender should be represented between 40% to 60% in the statutory bodies of the ETUC.

Since 2007, gender disaggregated data on affiliates' membership and decision making positions have been collected by the Secretariat through the "8th of March Survey" and its outcomes are presented and regularly discussed by the Women's Committee and the Executive Committee.

According to the last 8th March Survey, women represent about 45% of the ETUC membership and they have been crucial to sustaining trade union membership levels even in times where trade unions' overall membership has been shrinking. Despite this encouraging trend, there is a persistent low level of women in trade union leadership positions and little progress has been made over the last 4 years. Women are more likely to be in 'deputy' positions. Gender balance has been taken into account within the ETUC Secretariat, but still has not been achieved in ETUC standing committees.

Vertical segregation of women is a matter of concern for the ETUC not only within trade unions' bodies but also in society. Despite the fact that women outnumber men in upper secondary or tertiary education and represent the majority of graduates in most member states, they are still lagging behind in positions of responsibility in politics and business, as well as in other fields. The situation is particularly worrying in the corporate sector with, on average, one out of ten women members of boards in Europe's largest publicly quoted companies and only 3% of board chairpersons.

Trade unions can play a key role to ensure that the overall working environment supports a more balanced participation of women and men. A combination of measures is needed to address the persistent lack of women in positions of decision making in trade unions and in the labour market.

3. Eliminating gender representation gap in decision making bodies

Key actions:

- Affiliated organisations will step up their efforts to achieve gender balance in their decision-making level bodies. Gender audits, mentoring programmes, gender-based membership trends, quantified targets and training to support women to take up leadership roles will be promoted.
- Affiliates will continue to take the need for gender parity into account when nominating representatives in ETUC standing bodies and working groups. ETUC confirms its commitment to achieve a representation of each gender in standing committees that is in line with the proportion of women in the overall membership rate.
- The ETUC will run the 8th March survey which shows the gender distribution in the decision making structures of the ETUC and its affiliated organisations. Results will be presented to and discussed in the Executive and Women's Committee. On the basis of the results achieved, further action will be considered to mobilize ETUC affiliates in view of the ETUC Congress 2015.
- As a start, the ETUC will draft a template for gender disaggregated data collection that can be used by national and EU affiliates and work together with members that do not collect disaggregated data.

- A study to improve gender equality in trade unions will be produced by the ETUI for the ETUC mid-term conference in 2013 with a view to reach the targets adopted by the Congress.
- ETUC will provide for specific recommendations to the EC to enhance women's presence in company boards in view of the EC initiative foreseen in June 2012.

Objective 4: Promoting the combination of work, family and private life

Care work is still unequally divided between women and men. Women are still taking on most of the care work and, at the same time, many women are in paid employment. The double burden of paid work and unpaid work within the family, together with a persistent lack and adequacy of support care services, are some of the reasons behind the declining fertility rate in Europe and can be identified as one of the main barriers to women's full participation in the labour market and decision making at all levels. This problem is a growing one, especially for the so-called "sandwich generation": those who have to combine caring for their children and their elderly parents, with holding down some form of paid employment.

The ETUC has made several proposals in the area of reconciliation, following the consultation launched some years ago by the EC. We emphasized in particular the need for an integrated approach that offers a balanced mix to all workers, men and women, on the organization of working time, employment and working conditions.

Family-related leaves (such as maternity, paternity, parental, filial, carers) are effective measures, amongst others, to encourage the sharing of family caring responsibilities between women and men or partners of the same sex. However, barriers still exist which discourage their use especially by men.

Maternity protection is still not fully guaranteed and female workers often face discrimination and layoffs in case of pregnancy. In some member states, these discriminatory acts are being exacerbated by the crisis and young and precarious female workers are particularly at risk. ETUC fully supports for the need to review and strengthen the existing Pregnant Workers Directive (92/85/EEC) by introducing full payment, stricter rules against dismissal and increasing the length at least up to 18 weeks

There is a need for a coherent policy with regard to reconciliation that should offer: good quality, available and affordable child and elderly care facilities; a variety of paid leave options that should be taken by both parents; recognition of the role of fathers with regard to childrearing; flexible working time arrangements and possibility to reduce or extend one's working time (reversible part time work) and sound investments on services of public interest.

Once again, collective bargaining to enhance the balance between work, family and the private is an essential tool in the hands of trade unions. In March 2012 the Directive 2010/18 implementing the EU social partners' framework agreement on parental leave will have to be transposed in all EU member states.

ETUC considers reconciliation as an essential policy to address the gender pay gap and the lack of women in decision making, and action is needed to consolidate existing measures and address shortcomings.

4. Promoting the combination of work, family and private life

Key actions:

- ETUC will put forward recommendations to the EU on carers' leave as a contribution to the EU Year on Active Aging.
- ETUC will continue to lobby for the revision of the Maternity Directive and engage in constructive dialogue with the EU Council, Commission and Parliament to overcome the current impasse;
- ETUC will ensure that negotiations on the revision of working time Directive will include provisions to facilitate work-life balance.
- ETUC will continue to lobby to adopt a paternity leave entitlement at EU level.
- ETUC will follow the implementation of Directive 2010/18 implementing the EU social partners' framework agreement on parental leave. An implementation report will be prepared by the ETUI.
- ETUC affiliates will seek to improve existing legislation on reconciliation via the collective bargaining at different levels: sectorial, national, regional and territorial. Measures should address both male and female workers and include for instance: the promotion of professional breaks, paid parental, paternity and family leave, flexible working time arrangements, company and inter-company kindergartens, etc.
- ETUC affiliates will continue to promote the exchange of good practices in the area of reconciliation, such as campaign to encourage men to use family-related leaves. They will disseminate information with regards to EU legislation and policies on gender equality at workplace. Adequate visibility of these practices will be given on the ETUC website.
- ETUC affiliates will also pay attention to the organization of trade union life (meetings, travels, activities) responds to work-life balance needs of both men and women.

Objective 5: Addressing the link between domestic violence and workplace rights

Domestic violence is a complex issue consisting in a different mix of different types of abusive behaviors (psychological, physical, sexual, material, financial) and it is randomly regulated across the European union.

Both men and women can be either perpetrators or victims of domestic violence. In Europe today, one in four women may be or may have been a victim of violence. Violence against women takes different forms and cuts across all countries and social classes. It is an obstacle to the realisation of equality between women and men. The recession is likely to increase the risks of domestic violence and of violence against vulnerable groups of workers. Investment in prevention will therefore be very important.

The effects of domestic violence for the society are enormous and it is widely acknowledged that domestic violence has also an impact on work. Domestic violence can affect workers' capacity to get to work, violence can also continue at the workplace (via abusive phone calls, emails or physical abuse at the workplace by the partner). All these pervasive behaviours can negatively impact on workers' performance and well being and it puts at risk workplace safety.

Better workplace policies and practices can reduce the impact of domestic violence on work performance and security as various study demonstrate. Trade unions' action is therefore crucial in order to put in place adequate measures.

In its Athens Action Programme the ETUC has reaffirmed the need for Europe to issue a generally binding instrument on the protection of women against gender-based violence as such. The ETUC has also committed itself to continue mobilising to combat all forms of violence and to continue to monitor the implementation of the EU social partners agreement on preventing, combating and eliminating harassment and violence at work . The actions below intend to pursue this specific objective.

5. Addressing the link between domestic violence and workplace rights

Key actions:

- ETUC will implement a project on good practices aimed at reducing the impact of domestic violence on working people by achieving better workplaces rights that support them to stay safely in their jobs and in their homes. The project will be intended to:
 - Raising knowledge about domestic violence and why and how it affects workplace;
 - Share trade unions' practices to prevent and deal with domestic violence.
 - Develop strategies of how to handle violence and harassment in the workplace
 - Adopt recommendations to ETUC affiliates.

- ETUC will continue to lobby for a legislative framework at European level, on the basis of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.
- The ETUC affiliates will commit to:
 - assess the impact and scale of domestic violence abuse in the workplace;
 - develop model policies with employers to protect and respect the dignity of workers experiencing domestic abuse;
 - share examples of good practice adopted;
 - work to lobby national governments to take effective action on domestic abuse.

Implementation, reporting and evaluation of the Action Programme

In order to successfully meet the objectives that have been identified in the Action Programme on gender equality, ETUC member organizations have committed themselves to promoting a sense of ownership, shared responsibilities and actions at all different levels.

As a first step, affiliated organizations will give adequate visibility to this Action Programme. It is therefore recommended to: translate the Action Programme into national languages, send a copy of the translation to the ETUC so that EU-wide visibility could be given through ETUC's channels, and disseminate and discuss it with trade unions' representatives.

The ETUC secretariat will be responsible for leading some specific key activities to meet the objectives of the Action Programme and recourse to EU funding, if necessary.

An evaluation of progress to achieve the Action Programme will be put forward to the Executive Committee at the beginning of 2013 and a more consistent review of this instrument will be assessed on the eve of the ETUC Mid-Term Conference in 2013. The women's committee will have a strategic oversight of the implementation of the key actions identified.

ETUC and its member organizations will make available sufficient resources for the accomplishment of the key actions of the Action Programme on gender equality.



Collective bargaining: The ETUC priorities and working program (Resolution)

Adopted at the Executive Committee on 6-7 March 2012

The context

The austerity measures decided on by the European institutions and governments are having a heavy and negative impact on wage trends, on wage formation systems and on collective bargaining. The role of the social partners has been undermined in most EU countries and it has had repercussions for trade union power.

In a time of economic recession, a downward spiral of wages has replaced currency devaluation and has become a tool of competitiveness for the European Union.

Wage freezes and cuts, both in the public and private sectors, opening clause contracts as well as bipartite and tripartite agreements are strongly influencing the collective bargaining activity.

These changes follow a decade of comparably slow increases in wages and unit labour costs (often due to labour market reforms) in some countries and a lack of bargaining in other countries, notably in Central and Eastern Europe. This has weakened collective bargaining coordination and undermined positive experiences like the Doorn process.

After the Europlus Pact, the “six pack” and the Fiscal Compact, this competitive strategy is spreading across the whole of Europe, through imposed decentralization of collective bargaining and the setting of wages according to productivity only. Even if the Treaty does not allow wage intervention from the European level at the national one, this constraint has been bypassed through the “institutional coordination” of wage policies which are currently undermining or totally suppressing the role of social partners in a number of countries.

How can we coordinate collective bargaining policy?

To confront this austerity context and fight against wage dumping, the Collective Bargaining Committee of the ETUC launched the idea of shaping a “new kind of coordination”, with the aim of supporting affiliates’ actions by trying to define an articulated range of updated principles, to be implemented according to the different national situations.

We want to strengthen the unions in their performing of the task of safeguarding the wage levels for their members. Therefore we must better analyse short falls in our previous processes, better define the limits and objectives of our action and adapt it to the new context and to the various national needs.

Of course there is no “one size fits all”-solution and we must not impose anything to anyone: there are affiliates that need our help and support, others that don’t; some affiliates prefer to coordinate their collective bargaining policy in groups of countries or sectors, others that don’t want or cannot participate in a coordinating process.

We need to respect these different traditions, but at the same time we need to agree on

common goals, learn more from each other, share more information and lessons with each other and form a common strategy for strengthening the unions and the union capacity in Europe.

In the current extraordinary situation we cannot adopt a “stand-alone position”, because the austerity measures and notably the new Commission scoreboard on wages’ imbalances in Europe will force wage intervention and austerity on even the stronger countries.

Therefore we need more solidarity, we need to combine forces through differentiated strategies, to find new ways of mutual help.

Different strategies for different situations

In countries where collective bargaining coverage is high, affiliates seek to strengthen or want to preserve their current wage formation systems.

In other countries, notably where collective bargaining is weak or non-existent, trade unions want new tools to defend wages.

The effects of minimum wages on wage trends and coverage, and TU membership, were discussed in this context.

The extension of collective agreements coverage was recognized as a fundamental tool to prevent wage dumping.

The possibility of promoting a Social Contract at European level, to implement the recovery strategies, to guarantee the social partners’ autonomy and rights in collective bargaining, fair wages, good employment and a common level of social protection throughout Europe, was also discussed.

The definition of wages in the various countries depends both on bilateral negotiations between social partners and trilateral social dialogue. Fiscal and social measures influence the wage formation process and should be dealt with by social partners.

The scope of collective bargaining has to be seen in a larger context. Not only wages have to be negotiated, but also qualitative objectives regarding working conditions, equality principles and employment policies.

In the countries with high levels of unemployment, the priority of the trade union activity must also continue to be the maintenance and creation of jobs. This means that flexible formulas could be agreed in order to maintain jobs as well as to create them but, in any case, this should not constitute the poaching of jobs from other companies, other regions or other countries.

Solutions at European level are also sought through strengthening macroeconomic dialogue and social dialogue, and by organizing more effective joint campaigns.

The general message from the affiliates is that the European trade union movement should coordinate these different tools more concretely in order to avoid competitive trends. They generally need to exchange information and notably best practices, but in some countries they also need to set up common demands and actions.

Confidence is needed between the affiliates and trust must be restored.

A new coordination of collective bargaining policy

A general coordination with single guidelines for all is difficult to reach in the new economic context, or it can't even allow us to achieve the results we need. It is also difficult to propose a universal campaign title appealing to all workers independently of their country of residence, sector or professional position.

We should better focus our analysis and strategies on the different priorities of affiliates in the various countries, regions and sectors. We will try to provide some concrete help to our members.

Thus we should move from a general abstract idea of coordination, to a more concrete set of initiatives, focused on the different situations and needs. We should adopt a "new coordination of collective bargaining policy".

Collective bargaining remains a matter of national trade unions and in some countries, sectors and companies is also coordinated by confederations and ETUFs. The ETUC can provide a forum to bring the different affiliates together and organise a coordination of the various coordinating activities.

The possibility of creating informal regions for developed cooperation and coordination of policy - with the common features of labour market, economic situation, structure of collective bargaining systems, trade union density and structure and so on - could be developed, discussed and tried.

Our future coordination of collective bargaining policy could be founded on four main priorities, to be discussed in greater detail in the coming months in a continuous process of "step by step" implementation.

1. Strengthening collective bargaining

Collective bargaining is the core business of trade unions. Unfortunately, in many countries collective bargaining does not exist or is not able to provide sufficient protection. The bargaining powers of social partners as well as the content of collective agreements vary considerably.

The ETUC and its affiliates should take more responsibility for safeguarding and promoting trade union rights in Europe.

The ETUC and its affiliates should fight to preserve, enhance and spread collective bargaining everywhere, keeping some principles in mind:

- We have to defend the autonomy of social partners in collective bargaining;
- We should fight against the unwanted decentralization of collective bargaining, achieved by getting rid of undermining the collective agreements at national level;
- Wages should rise according to annual rates reflecting - among other developments - increases in inflation and gains in productivity;
- Increasing wages and boosting internal demand, together with investments and innovation, is a fundamental tool for supporting economic growth;
- Collective bargaining is a key instrument in combating discrimination and tackling the pay gap between men and women.

While we should stick to these principles, we should be aware that they could be applied in different ways and degrees, depending on the actual possibilities existing in the countries.

It should be a target to be achieved progressively, an objective to be pursued by offering a degree of flexibility. At the same time, nominal wage increases should stay in positive terrain, and wage cuts and freezes should be rejected.

These guidelines enable us to devote part of the total bargaining space to measures that support job creation by, for example and amongst other things, increasing the number of trainees, investing in lifelong learning and reducing the incidence of precarious and insecure job contracts. In situations or countries where trade unions wish to do so, collective bargaining can go beyond the sum of inflation and productivity.

A greater coordination between us is needed to manage this kind of flexibility; some shared guidelines have to be set, that should not be crossed below which we shouldn't go.

This has to be done by starting from a common evaluation of the recommendations on salaries and economic imbalances issued by the Commission with its scoreboards. The EU institution put an external coordination on the table that we must counter with an autonomous and shared TU strategy.

The reaction to the scoreboard (that concerns 12 member states, even with strong economies) has to come from the entire European trade union movement: the responses have to be coordinated and the Collective Bargaining Committee is the ideal place in which to start this discussion.

2. Defensive agreements, opening clauses

Over the last 10 years and especially after the crisis, affiliates in several countries have negotiated tripartite or bipartite defensive agreements at national level, or opening clauses agreement at company level, aimed at saving employment or supporting competitiveness.

In order to avoid the possible negative dumping consequences of these kinds of agreements, we may need some guidelines that could be shared between the affiliates, for example:

- Avoid all practices which are aimed at bypassing trade unions; the agreements have to be signed by representative trade unions wherever they exist, not only by work councils or by committees that have no mandate from workers;
- Defensive agreements should aim at avoiding dismissal, supporting investments and innovation, facing the effects of the crisis, and not wage dumping or competition between workers;
- The possible negative effects of an agreement aimed at saving employment should be temporary and not affect the general collective bargaining system and its coverage in the country or sector or company involved;
- Concessions made by the unions must have a clear and well-defined compensation; the principle of "quid pro quo" exchange should be taken into account;
- Company level agreements should be embedded in higher-level framework agreements, clearly setting lower limits to be respected by company level concession bargaining;
- Procedures to control deviations should be set up by social partners at the level involved.

3. Minimum wage and collective bargaining coverage

The coverage of the collective agreements at any level should be pursued in each country. It is the most suitable instrument for trade unions to ensure fair wages and avoid social dumping. A high level of trade union membership is fundamental to improving collective bargaining coverage.

In countries, sectors or companies where collective bargaining does not exist or is not strong enough to ensure decent and fair negotiated wage coverage for the majority of employees, the legal minimum wage and/or the erga omnes coverage could be useful tools.

Minimum wages and indexation systems, as well as collective agreements coverage, have to be preserved and strengthened where they already exist.

The minimum wage is not an objective by itself but an instrument for fighting the development of precarious work and to shift the wage ladder upwards.

Legislation on the minimum wage should provide for a specific involvement of social partners in bipartite/tripartite bodies/consultations before the adoption of the minimum wage by public authorities.

The ETUC and the EU federations should strongly support our affiliates at every level in order to achieve these objectives, in accordance with their national circumstances.

The different systems of minimum wage, indexation, erga omnes, collective agreements coverage should be analysed at a technical level within the ETUC with the aim of better understanding of the different systems and proposals, as a precondition for a possible coordination.

4. *Transnational and cross-border agreements*

There was a strong request by our affiliates, especially at cross-border level and in Central and Eastern European countries, for enhancing cooperation and coordination of the negotiations in multinational companies.

This is an important way of preventing social dumping and wage competition and of achieving a progressive approximation of working conditions within the same company.

This issue falls under the scope of Transnational Company Agreements and is going to be discussed by a specific coordinating body setup by the ETUC together with the ETUFs. The discussion should also involve the national trade unions and federations, in order to submit a specific resolution to the Executive Committee in the near future.

Practical commitments and actions

The four principles mentioned above are a first list of proposals that need to be discussed further.

There might be some organizations that are interested in applying some guidelines; some trade unions in implementing other priorities. For any priority we should set specific guidelines.

We should start an enhanced cooperation process, to strengthen our positions and actions in all the fields we choose as a basis for our strategy of a “new kind of coordination of collective bargaining policy”.

Possibilities for starting regional informal clusters for enhanced cooperation and mutual learning between national trade unions should be discussed and developed.

The CBC should develop its working methods in order to work in a more effective way.

A Summer School will be organized, with a general discussion and four working panels, aimed at better analysing and defining the four principles and the guidelines we will set out.

This will be the scope of the project we are going to submit to the Commission this year in the field of the coordination of the collective bargaining policy.

Furthermore, we need to discuss in more detail the way to apply the decision already taken in the last Executive Committee’s resolution on collective bargaining in 2010, aimed at setting up a Steering Committee within the CB Committee.

This kind of Steering Committee (that already exists within other permanent Committees in the ETUC) would not be a political or decision-making body, but simply an internal task force, whose purpose should be to support the work of the CB Committee at technical level.

From this perspective, and in order to avoid confusion with the statutory Steering Committee of the ETUC and the elective Steering Committees within the ETUC's other permanent Committees, it may be necessary to call this particular committee by another name.

In the last resolution the Steering Committee proposed involving the ETUFs only, in order to strengthen the coordination at European level between them and the ETUC. In the new context we should also consider the involvement of few representatives of the national affiliates, from the main regions where an enhanced coordination will be achievable.

The new name and the composition criteria of this committee will be defined by the Secretariat, in agreement with the Collective Bargaining Coordination Committee.

That decision should not imply a cost increase for the ETUC.

Meanwhile, a range of practical actions has to be defined in order to:

- Enhance 'networking' amongst members so that they learn the most effective bargaining strategies from each other;
- Promote the exchange of information, in order to share common priorities and guidelines;
- Try to involve in the coordination process the most relevant people in charge of collective bargaining by the affiliates;
- Support the creation of coordinating activities between confederations and federations in those countries and regional areas in which they don't exist;
- Encourage the ETUFs in improving their internal coordination of collective bargaining with the national federations in each sector and across the sectors;
- Ensure that the European dimension is taken into account when affiliates pursue their collective bargaining aims (also, wherever possible, through the ETUC's involvement in the regional clusters for enhanced cooperation);
- Ensure that the gender dimension is taken into account in collective bargaining (e.g. women are included in negotiations; negotiators are trained on gender equality issues etc.);
- Coordinate the annual questionnaires and surveys issued by ETUC, ETUFs and national affiliates;
- Organize common training activities with the affiliates that request it, regarding collective bargaining policy and notably technical matters, for example, the indicators for wage negotiations (inflation, productivity etc);
- Launch joint campaigns and actions to spread information and to support affiliates in strengthening each other their collective bargaining activities.



ETUC Resolution (Investing for growth and jobs – ETUC reaction to the Annual Growth Survey 2012)

Adopted at the Executive Committee on 6-7 March 2012

Investing for growth and jobs – ETUC reaction to the Annual Growth Survey 2012

1. The European Union is in disarray – financially, economically and socially. The sovereign debt crisis shows no signs of abating, the economy is back in recession and the social impact of the crisis is evident: unemployment, poverty, inequality and insecurity are all increasing as citizens continue to suffer the fallout from a financial and economic crisis they did not cause. The European Commission's economic forecast, already poor when it published the second **Annual Growth Survey**¹ (AGS) in November 2011, has deteriorated further with the prediction that the euro-zone economy will contract further in 2012.
2. Unemployment in Europe remains historically and stubbornly high. As at December 2011, the EU 27 unemployment rate stood at 9.9%, representing over 23.8 million Europeans without a job. The youth unemployment rate is 22.1%, i.e. almost 5.5 million people under the age of 25, an increase from 21% at the same period the previous year. To add to this gloomy picture, it is likely that the number of people at risk of poverty, which already amounted to 23% of the European population in 2010, has increased and will get even worse. The Employment and Social Developments in Europe 2011² (ESDE) report confirms that the general trend in inequality remains upwards, even in traditionally egalitarian member states. Almost one in ten employed Europeans is at risk of poverty because they do not earn a decent wage which allows them and their families to live in dignity. The gap between labour and capital's share of national income has also widened further.
3. Recession and rising unemployment are not the only concerns. The lack of an EU-level democratic process - illustrated by the recently endorsed fiscal compact - undermines the model of EU integration. This will have serious consequences on our social fabric. Workers' rights, well established collective bargaining systems, institutions of social dialogue as well as the European Social Acquis are victims of financial markets and the wrong EU policies.

Annual Growth Survey 2012: failing to address reality and provide a credible solution to the unemployment and growth crises

¹ The 2012 Annual Growth Survey package, published on 23 November 2011, consists of the AGS Communication and 4 annexes: Progress report on Europe 2020, Macro-economic report, the Draft Joint Employment Report and a report on "Growth-friendly tax policies and better tax coordination in the EU".

² Employment and Social Developments in Europe 2011, European Commission 15.12.11
<http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=6176>

4. The ETUC's overall analysis of the 2012 Annual Growth Survey is that despite the more nuanced language on fiscal consolidation and the welcome inclusion of tackling unemployment and the social consequences of the crisis in the 2012 priorities, the key messages remain the same: fiscal austerity, structural reforms of the labour market (particularly the adjustment of labour costs to correct macroeconomic imbalances), completion of the single market entailing accelerating further liberalisation of services, network industries and public services, and the promotion of free trade agreements. Essentially, the AGS' policy recommendations are contradictory and, under pressure from the financial markets and the Troika policy prescriptions, austerity policy orientations will dominate over the social ones.
5. The informal summit European Council of 30th January 2012 resulted in the endorsement of the "fiscal compact" and a Council orientation statement on growth and employment in advance of the March European Council. For the ETUC however, this was another missed opportunity – despite some indication of a commitment to tackle youth unemployment, the EU leaders failed to deliver substantial proposals to meet the growth and employment challenge.
6. **The deteriorating employment and social situation** and the need to halt this downward spiral are recognised by the Joint Employment Report (JER)³. The ETUC acknowledges some positive elements of the JER notably: the emphasis on job creation; the focus on the difficult situation of young people, the low-skilled and the long-term unemployed; recognition of the essential role of social services and social protection systems in preventing marginalisation of low income and vulnerable groups; the call for investment in education and training to raise productivity and income levels; and acknowledgment that slowing growth is hampering employment recovery and improvement of the employment rate.
7. The focus on **youth unemployment** in the AGS and, subsequently, the informal growth and employment summit (including the Commission's initiative for youth employment 'action teams') is, whilst long overdue, undoubtedly welcome. However, participation rates for disabled and migrant workers, who are among the most vulnerable and precarious of workers, have also been hit hard. The gender aspects of employment and the crisis, the potential negative impact on the gender pay gap (already apparent in some member states) and increasing incidents of pregnancy discrimination, must not be overlooked.
8. A glaring omission from the European narrative on job creation and job-rich recovery is the absence of a focus on securing **quality jobs and decent work**, including proposals to address low wages and in-work poverty as well as income inequality. In contrast with the findings of the ESDE 2011, which highlight growing inequalities, the JER gives little attention to this rising trend. Moreover, while the ESDE confirms that decentralisation of collective bargaining leads to earnings dispersion and low minimum wages and, in consequence, to in-work poverty, the JER fails to assess the coherence between the Commission's recommendations to decentralise wage bargaining and remove indexation systems, and the lack of progress towards the Europe 2010 poverty reduction target.
9. The ETUC rejects the approach that wages should be used as an instrument of competitive adjustment. Wages need to pursue and create a balance between different goals including income stability for workers, avoiding the dynamics of deflation, defending purchasing power, functioning as an engine for economic growth and ensuring a fair distribution of

³ Adopted by the EPSCO Council on 17 February 2012

the benefits of economic progress. For the ETUC, the keys to competitiveness – both within and outside the European Union – are quality and innovation and these are not supported by flexible wages.

10. **Support for banks but only on condition they support investment:** The AGS asks Member States to give priority to strengthening the banks' capital positions and, correctly, warns against banks improving their capital position by unduly restricting lending to the real economy. However, it fails to support this enormously important recommendation by setting up a policy framework to actually organise this.
11. **Mobilising the EU budget for growth and competitiveness:** the ETUC supports the better use of the EU Structural Funds to bolster growth and employment creation, particularly to support apprenticeship schemes for young people. Whilst ETUC supports the improved use of the structural funds, these proposals need to go further. On their own, the funds are not sufficient for tackling the crisis and must be linked with economic governance based on investment, solidarity and social integration.
12. **Growth-friendly tax policies and better tax coordination in the EU:** this new addition to the AGS annexes follows-up on the European Council's conclusions of 24 June 2011 that the Commission should report back on progress made in the structured discussions on tax policy issues in the context of the 'Euro Plus Pact'. The focus on the need for co-ordinated action to tackle tax evasion and fraud, to consider the role of taxation in contributing to fiscal consolidation and the recommendation to shift taxation away from labour towards taxation which is less detrimental to growth, such as wealth and environmental taxes are encouraging and deserve further consideration.
13. **The promotion of social protection systems, education and training is is nothing more than window dressing as budgetary cuts remain the priority:** the Commission correctly underlines that priority should be given to investment in education and skills to address increasing skills' mismatches and that social protection systems should continue to cushion against poverty and social exclusion as the social situation deteriorates. However, the recognition of the important role of social investment in human capital and social protection is contradicted by the priority given to fiscal consolidation. The experience of countries which have already adopted this instruction confirms that cuts have been made in social payments, reducing social benefits and the financing of health and social services.
14. **Attacking public services and front-loading deregulation:** member states are encouraged to pursue public sector reforms under the pretext of the need for "modernisation" and budget consolidation. The ETUC rejects a policy of public sector reform based solely on economic reasons and deficit reduction. The role and functioning of public administrations cannot be reduced to the narrow focus of fostering EU competitiveness.
15. **The deregulation agenda:** the Commission's proposal, endorsed by the Council, to essentially exempt micro and small enterprises from new EU regulation is a worrying new development in the "Smart Regulation" agenda. The risk of blanket exclusion of SMEs from employment regulation, not least regarding health and safety, is unacceptable. The Commission's proposal to develop a scoreboard of proposals to reduce administrative burden as they go through co-decision and national transposition which it will use to

highlight cases where the legislator “adds burdens” during the process raises questions regarding the encroachment on the competence of the national and European legislators.

16. **Super economic governance:** The AGS is accompanied by a proposal for two new regulations on economic governance, specifically for Euro Area Member States. One seeks to further enhance the Commission’s (DG ECFIN) powers to supervise ongoing budgetary processes at national level. The other aims to replace existing and recently installed European policy processes (European Policy Semester, Excessive imbalance procedure) with a new policy process in which Member States ‘experiencing or threatening to experience financial difficulties’ are put under ‘enhanced surveillance’. The latter aims, apparently, to ‘broaden and deepen’ policy measures and recommendations following from the Treaty articles on the economic and employment policy guidelines. There is an explicit link with the new budget for European funds by stating that non-compliance with the adjustment programme that follows from this new policy process will result in a suspension of payments from the European Structural and Social funds.

Europe urgently needs to change course

17. Central bankers, finance ministers, European leaders and the European Commission have been taking the wrong decisions over the past years. The ETUC reiterates our long-standing message that austerity does not work: the policy is self-defeating and has failed. The view that rapid fiscal consolidation would restore confidence and push savings rates down has proven to be a myth. In fact, fiscal consolidation has been accompanied by falling household confidence and weakened economic activity. Despite the cuts, this is, in turn, not only keeping deficits high but is also pushing public debt ratios up because of the denominator effect. Sticking to short term deficit targets despite the fact that the EU economy is already in recession will only make the situation worse.
18. A further European policy mistake is that labour market policies are called upon to counter serious macroeconomic policy mistakes on the premise that labour market flexibility, easy hiring and firing, will foster job creation. However, the reality is that labour market flexibility is not the miracle solution to create employment. The real risk is that decent jobs are converted into precarious and low paid ones which weakens the economy as low wages result in less demand while insecure jobs imply higher precautionary savings. In short, precarious jobs lead to a precarious economic recovery. The ETUC rejects this type of structural reform.
19. Some messages from the latest summits (informal growth and employment summit of 30 January and the March European Council) indicate a realization among EU leaders that fiscal consolidation and economic governance alone will not get Europe out of the crisis. The acknowledgment that tax policy has a role to play in supporting growth and the call for progress on the Commission’s proposals on energy taxation, the common consolidated corporate tax base and on the financial transaction tax is worth noting but we await concrete progress on these issues. Similarly, the Council’s endorsement of the Commission’s recommendation that “growth-friendly expenditure” such as education, research and innovation should be prioritised, can be supported, but with the caveat that without a proper investment plan these objectives will not be realised. Finally, whilst employment and social policy matters appear to be creeping back on to an agenda dominated by economic policy, as things currently stand, the prospect of achieving the Europe 2020 employment and poverty reduction targets seems to be moving further away.

20. The proposed solution to the jobs and growth crisis, as presented by the Commission in the AGS and by the European Council, continues to consist in recommendations for labour market reforms - characterised by wage moderation and employment protection deregulation - combined with completing the single market, including its further liberalisation. This approach, coupled with the continued pursuit of austerity - even if now presented as “growth-friendly consolidation” - will do little to solve the pressing challenge of boosting the economy to provide sustainable growth and create desperately needed quality jobs.
21. The ETUC continues to call for an urgent re-evaluation of the EU’s current economic and employment policies. A change of direction - away from austerity and accelerated budget rebalancing and towards a sustainable economy supported by the creation of decent jobs and the reduction of inequalities between Europe’s citizens - is urgently needed. The European Semester schedule should be modified to reinforce the political dialogue with the social partners and other stakeholders. The social partners should be consulted during the preparation of the AGS, not when it is a *fait accompli*. The ETUC supports the European Parliament’s resolution on the *Employment and social aspects in the Annual Growth Survey 2012*⁴. We call for the Parliament’s full involvement in the European Semester.

Investing for a sustainable economy, quality jobs and social equality: ETUC calls for a European Investment Plan and economic recovery led by wages and quality jobs.

22. The recessionary developments in the economy call for an urgent ‘reality check’ on the economic policies being pursued and promoted across Europe. To stabilise the economy, we need ‘**circuit breakers**’ to stop the negative feedback loops between the fiscal policy of austerity, the sovereign debt crisis initiated by the financial markets and the structural reform policy of social deregulation. Europe also needs ‘**accelerators**’ to relaunch the economy, create quality jobs and fuel a self-sustained process of growth.
23. **Circuit breaker 1:** the European Central Bank should, directly or indirectly, provide the necessary liquidity as a ‘lender of last resort’ for sovereign debt. Markets will thus be made to understand that the sovereign debt in the Euro Area is backed by a central bank, as is the case in the US and the UK with sovereign debt being issued in their own currencies.
24. **Circuit breaker 2:** the EU must pursue the objective of a solid and well-regulated financial sector but the pro cyclical arrangements of current financial regulation should be reviewed, in order to ensure credit provision to the real economy. The combination of an accelerated imposition of higher capital requirements (Basel III norms imposing 9% equity ratio) by July 2012, together with banks being forced to register their holdings of sovereign bonds at a severely depressed market value (‘mark to market’⁵), is triggering a renewed credit squeeze. The technique of ‘mark to market’ of sovereign debt should be abandoned. A distinction should be made between banks which predominantly provide credit to the real economy and investment banks (whose balance sheet consists of 60-70% of derivative trading and speculative activity). The capital requirements of the Basel III should be

⁴ (2011/2320(INI))- adopted 15 February 2012

⁵ ‘Mark to market’ refers to the practice of valuing an asset at the current market value. The choice of the mark to market method is based on the highly unrealistic assumption that the ‘market signal’ is always the correct one. At present, however, the situation is such that markets are seriously undershooting and are excessively pessimistic towards sovereign debt and banks lose part of their capital base.

imposed on the latter by the July deadline, while the former should be subject to ‘moving’ capital requirements, depending on the business cycle. Banking sector deleveraging will thus target speculation rather than affecting jobs. In addition, the access of the banking sector to the ECB's massive liquidity at an interest rate of 1% should be made conditional on the distribution of adequate credit to the real economy, while the practice of paying irresponsible bonuses and dividends must be stopped.

25. **Circuit breaker 3:** The ETUC calls for a ‘year of healing’ with a temporary freeze on new fiscal austerity in 2012, combined with an adapted and longer time frame for reducing deficits below 3% of GDP. The Commission refuses to recognise that the unfolding recession is firmly linked to the austerity policy that it has been pushing for. Its objective of cutting public deficits from 6% to 3% in three years’ time may be on track but the consequence is that recovery and jobs are jeopardised.
26. **Accelerator 1: a European Investment Plan** focused on structural investments rather than structural reforms. Instead of member states competing on jobs, Europe needs to invest itself out of the crisis and out of debt by developing new sectors and economic activities, underpinned by a coherent European industrial strategy and investment in public services. This Investment Union would need to transfer the high savings surpluses of one part of the Euro Area into a structural investment policy that is focused on upgrading the economic and industrial structure, in particular, of the ‘deficit’ Euro area economies, while developing a close synergy with the ‘greening’ of the European economy.
27. To support this European Investment Plan, the ETUC repeats its call for new sources of revenue to be developed, including a financial transactions tax and Eurobonds. Revenue streams should also be improved via fairer taxation (a European wealth tax should be considered). Robust measures to tackle tax evasion, fraud and corruption must be implemented and efforts to address the causes and problems of undeclared work and the informal economy must be stepped up. The European structural funds should also be used to bolster the Plan. In addition to the ESF, the European Regional Development Fund should be better utilized (currently, around 25% of these funds -approximately 80 billion euros - are unallocated) to support job creation and stimulate growth⁶.
28. The public sector, broadly defined, drives development and has a potential as part of the Europe 2020 Strategy or economic governance reforms to pave the way for more sustainable and fairer development. Any public sector reforms should be driven by the fundamental objective of securing the sustained delivery of high quality public services, accessible to all and pursued with the full involvement of the social partners.
29. **Accelerator 2: Decent jobs with decent contracts and decent wages.** If European investment is to kick start growth, it is also crucial to make that growth self-sustaining. The present policy of promoting precarious work and downwards wage flexibility must be reversed into a process of wage led growth. Fair wages must be promoted through meaningful and effective social partner negotiations and increases in national minimum wages. The ETUC reiterates that social partners are primarily responsible for setting wages through negotiated collective agreements and that their autonomy in this regard must be respected. We oppose the policy of decentralisation of wage formation systems aimed at bringing wage setting to a level where workers’ and trade unions’ bargaining position tend to be weak.

⁶ [‘The proposed EU Multiannual Financial Framework and Cohesion Policy 2014-2020: ETUC position and call for consultation’](#) adopted by ETUC Executive Committee 7-8 December 2011

30. The ETUC welcomes the focus on **youth employment** as a top priority. Young people are particularly vulnerable to precarious employment and the ETUC stresses that the focus must be on the provision of quality jobs and training and not on further deregulation of employment protection legislation and fostering precarious contracts. Measures to address youth unemployment should form part of a wider strategy to create quality employment in general and be integrated into member states' employment policies. We support a **youth guarantee** in Europe to ensure that every young person is offered training or a job within a set period of time. We also support the Commission's initiative to establish "action teams" on youth employment with a view to assisting member states to identify the necessary elements for national youth employment plans
31. We recognise the value of mechanisms to protect employment such as the German system of "Kurzarbeit" by which jobs are maintained, income losses are prevented and workers are given the opportunity to upgrade their skills. EU-level initiative with this objective should be developed with the full involvement of the social partners. The European Commission wants to publish a communication on Flexicurity as part of an Employment Package. The ETUC warns that the focus on flexicurity in current economic circumstances is extremely unhelpful and a dangerous distraction. Instead, the emphasis should be on addressing precarious work and developing active labour market policies.
32. **A social contract for Europe.** The crisis, austerity, economic governance and the fiscal compact are being used as a vehicle to weaken workers' right, interfere with collective bargaining, and dismantle our public services and social protection systems. The ETUC continues to highlight the dangers that such unbalanced policies pose to the European social model and social cohesion. We urgently need a reorientation towards the social aspects: a social contract for Europe, giving priority to investments that promote a sustainable economy, quality jobs and social justice, while fighting inequalities.

2011



Resolution

Achieving social progress in the single market: proposals for protection of fundamental social rights and posting of workers

Adopted at the Executive Committee on 7-8 December

For firm and fair ‘rules of the game’ in the single market

The ETUC has long been calling for a single market framework, which ensures a climate of fair competition, guarantees the respect for the rights of workers and prevents fundamental social rights to be undermined. The ECJ judgments in the Viking, Laval, Rüffert and Commission vs Luxembourg cases have made the need for such rules even more urgent.

The ECJ cases exposed the weaknesses of the current EU legal framework:

- The ECJ confirmed a hierarchy of norms, with market freedoms highest in the hierarchy, and the fundamental social rights of collective bargaining and action in second place
- The ECJ interpreted the Posting of Workers Directive in a very restrictive way, limiting the scope for Member States and trade unions to take measures and action against social dumping and to demand better protection and the non-discrimination between local and migrant workers in the host country.

The consequences of these cases for Social Europe are far-reaching. They threaten social partnership models. Far from the promised social progress, workers everywhere in Europe are now paying the price of the single market.

Since 2008, the ETUC has been urging the EU institutions to take action to address these problems. The EU should revise the current legal framework by adopting a Social Progress Clause, which should clarify the relationship between economic freedoms and fundamental social rights, and conducting a thorough revision of the Posting of Workers Directive (PWD)¹.

Nearly four years after, the Commission will finally take legislative action. It will propose a Regulation on the basis of Article 352 TFEU on the relation between fundamental social rights and economic freedoms (the so called ‘Monti II Regulation’) and a Directive on the implementation of the PWD.

The ETUC is concerned that these proposals will not provide a sufficient response to the current challenges. The ETUC has already welcomed the principle of a Monti II Regulation as a step in the right direction, but also stressed that this should not mean that our demand for a fully fledged Social Progress Clause would fall off the agenda. In addition, the current proposal to improve the implementation of the PWD is needed

¹ ETUC Resolutions of March 2008, April 2009, March 2010

but does not by itself respond to all the challenges posed by the ECJ cases. A complete review of the PWD is therefore necessary.

Trade unions' demand for a Social Progress Clause is more relevant than ever

Since 2008, the ETUC has been calling for a Social Progress Clause in order to address the general implications of the ECJ cases and of any future case law. The Social Progress Clause should take the form of a Protocol, to be attached to the European Treaties and with the same legal value. The role of this Protocol is to redress the balance between economic freedoms and fundamental social rights. Following the adoption of the Protocol, it should be clear to the European courts, in particular the ECJ, that the provisions of the Treaties and secondary legislation should be interpreted in the light of the following elements:

- the single market is not an end itself, but is established to achieve social progress for the peoples of the Union
- economic freedoms and competition rules cannot have priority over fundamental social rights and social progress, and that in the event of conflict social rights shall take precedence
- economic freedoms cannot be interpreted as granting undertakings the right to exercise them to evade or circumvent national social and employment laws and practices, or for the purposes of unfair competition on wages and working conditions.

In the Single Market Act², the Commission announced that it would adopt legislation clarifying the exercise of freedom of establishment and the freedom to provide services alongside fundamental social rights, in particular the right or freedom to strike. This will be translated into a proposal for a Regulation (the so called 'Monti II Regulation'). According to the Commission, this Regulation will recognise that there is no explicit conflict between the exercise of the right to take industrial action and the economic freedoms. It will underline the important role of national courts in applying the proportionality test on a case-by-case basis, while reconciling the exercise of fundamental social rights and economic freedoms.

In the Athens Manifesto, the ETUC committed to demand and campaign for fundamental social rights to take precedence over economic freedoms and for this principle to be enshrined in a Social Progress Protocol in the European Treaties and internal market regulation known as Monti II. In particular, a Regulation cannot replace our demand for a Social Progress Clause.

First, whilst secondary legislation is to be interpreted in the light of the Treaties, a Protocol is at the highest level. In other words, the Social Progress Clause is the only instrument which can fully address the current Treaty imbalance between economic freedoms and fundamental social rights.

Secondly, a Regulation may not be able to redirect the ECJ interpretation of the Treaties. A Regulation merely stating that economic freedoms and fundamental social rights are equally important will present a risk to trade unions as the ECJ case law could as a result be further strengthened in secondary legislation, thereby making it impossible for the ECJ and/or national courts to mitigate the consequences of the Laval and Viking judgments in future

² COM (2011) 608 final

cases. Although this principle was already expressed in the four judgments, the ECJ imposed upon national courts a restrictive test to determine on a case-by-case basis whether the exercise of the fundamental right to take collective action can be justified when it conflicts with economic freedoms.

The proportionality test laid down in the Viking judgment constitutes an intolerable interference with the fundamental right to take collective action. Judges are now empowered to decide whether a collective action is a suitable means. The uncertainty resulting from such assessments has already been condemned by the ILO Committee of experts as having “a significant restrictive effect on the exercise of the right to strike in practice in a manner contrary to ILO Convention C87”³. Furthermore, the supremacy of economic freedoms over fundamental rights expressed in the ECJ proportionality test runs against the interpretation by the European Court of Human Rights (ECHR) of Article 11 of the European Convention of Human Rights.⁴ In light of the forthcoming accession of the EU to the European Convention of Human Right, this incompatibility must be urgently addressed.

Finally, although it is important that the national courts are given great margin of manoeuvre in those Member States where judiciary systems are competent to decide on matters linked to industrial relation systems, the ETUC stresses the need to find a European solution to the problems created by the ECJ judgments. It is impossible for a Regulation on its own to prevent national courts from referring preliminary rulings to the ECJ where they deem it useful. Moreover, preliminary rulings are compulsory whenever an unclear question of interpretation of EU law arises. It is therefore essential that a Monti II Regulation does not restrict trade unions’ right to take collective action.

In sum, the proposal for a Monti II Regulation must not lead to a further strengthening of the ECJ case law nor to an interference with national practices with regard to the exercise of the right to take collective action. In particular, a solution must be found to the proportionality test, which constitutes a breach of fundamental rights. Furthermore, the Regulation will not replace the ETUC demand for a Social Progress Protocol. On the contrary, the Regulation is a first step towards the adoption of the Protocol. In view of a possible Treaty change, the ETUC will insist on the adoption of the Social Progress Protocol.

Posting of Workers: finding the right response to the challenges caused by the ECJ cases

Apart from clarifying the exercise of fundamental rights in the framework of the economic freedoms of the single market, the Commission proposes to improve the enforcement of existing rules via a separate Directive, which would include provisions on administrative cooperation, controls and sanctions, and a clearer indication of the constituent elements relating to a posted worker and the establishment of the service provider.

Initiatives aiming at guaranteeing more effective enforcement mechanisms of EU law are welcome, but an enforcement Directive will not on its own solve all the problems caused by the ECJ cases. **Although an enforcement Directive is necessary to fight abuses and**

³ International Labour Conference 2010, Report of the Committee of Experts on the Application of Conventions and Recommendations, p.236-7

⁴ Demir and Bakýara Application 34503/97 and Enerji Yapi-Yol Application 68959/01

circumvention of the applicable labour laws, the core provisions of the PWD also need to be revised.

It appears that the Commission's proposal will only address issues relating to the scope of the PWD and the monitoring and enforcement mechanisms. An enforcement Directive with such limited ambition would fall short of six of the eight ETUC demands for a revision of the PWD.⁵

➤ *The social objectives of the PWD must be restated*

The objectives of the PWD, i.e. respecting the rights of workers and ensuring a climate of fair competition must be more clearly laid down in the PWD. In particular, a reference to the social policy objectives of Articles 151 and 153 TFEU would help to ensure a more coherent interpretation of the PWD. It is unclear to which extent an enforcement Directive could broaden the legal basis of the PWD.

➤ *The fundamental right to collective bargaining and to take collective action must be safeguarded*

Trade unions throughout Europe must be allowed to approach and put pressure equally on local and foreign companies to improve working conditions and demand equal treatment. This right must be clearly asserted in the context of posting, regardless of parallel discussions on the Monti II Regulation.

➤ *The PWD must only cover situations of temporary postings*

The Commission will probably try to further qualify the scope of the PWD so as to tackle situations where service providers supply their services on a quasi-permanent basis or without actually being genuinely established in another Member State.

Against this background, the ETUC would stress the following points:

- **The new instrument must introduce the legal presumption that the habitual place of work within the meaning of the Rome I Regulation should be deemed to be in the host Member State, unless it is established that the situation is one of genuine posting.** The application of a country of origin principle for cases falling outside the scope of the PWD would be unacceptable.
- **Posting within the meaning of the Directive should be of short duration. Workers who are posted for a longer period must be considered as habitually employed in the host Member State.** A two years time limit has been discussed by the Commission's services. This is unacceptable as the majority of postings do not exceed a few months. Such a long time period would in fact deprive the new provisions from any useful effect. The length of posting also varies between sectors and the social partners may therefore have an interest to negotiate the duration in accordance with specific needs in the host country.
- The Directive must also ensure that a change of status of the posted worker into a worker habitually employed in the host Member State does not lead to a deterioration of the terms and conditions of employment of the worker, including for instance allowances and compensation of accommodation costs by the employer.

⁵ <http://www.etuc.org/r/909>

- **Posting within the meaning of the PWD must be justified in the context of a genuine transnational provision of services.** This means that workers whose employing company in the alleged Member State of establishment is in fact a letter box company must benefit from the Treaty provisions on free movement of workers and have the right to non-discrimination in the host Member State. The existence of a habitual employment relationship of at least three months in the Member State of origin could be an indicator as well as the existence of genuine economic activity.
- Both quantitative and qualitative criteria are necessary to determine the existence of a genuine posting situation. This would help preventing absurd situations such as posted workers sent on the basis of a succession of contracts. The list of criteria must be binding in its entirety in every Member State. Undertakings throughout the EU must abide by the same rules and not be able to pick and choose the most convenient criteria.

➤ *The minimum character of the PWD must be restored*

Equal treatment with regard to wages must be guaranteed, as opposed to minimum rates of pay only (Article 3.1 PWD). Furthermore, the new instrument should clarify the applicable situation to temporary agency workers. Given the specificity of the rules concerning temporary agency work, especially having regard to the provisions surrounding the equal treatment principle, the Temporary Agency Work Directive and PWD must not contradict each other.

➤ *The different industrial relations models must be respected*

Less rigid criteria should be developed to judge if a collective agreement can be upheld vis-à-vis a foreign service provider, for instance in situations in which the majority of local companies is in practice bound by the collective agreement (Article 3.8 PWD).

- *Public authorities should be allowed via social clauses in the procurement contract to demand observance of locally applicable collective agreements*
- *The very restrictive interpretation of public policy provisions must be revised so as to include social objectives and the protection of workers (Article 3.10 PWD)*

Member States should be allowed to extend the protection of statutory employment rights to posted workers.

➤ *Effective monitoring and enforcement mechanisms must be put in place*

Experience in the Member States suggests a significant lack of enforcement of the current provisions of the PWD. This has been acknowledged amongst others by the Commission and the European Parliament. The strengthening of the rules and in particular a better defined scope so as to avoid the abusive use of posting, means that the problem will become more acute.

In practice, an adequate enforcement of the rules involves two aspects:

- **The control of the observance of the applicable terms and conditions of employment**

For the ETUC, it is important that Member States and social partners must be given the means to use effective monitoring and enforcement mechanisms in the host Member State, for instance to check that the posted worker is really habitually employed in the country of origin. Effective means of control should include:

- The appointment of a representative to undertake the responsibilities of the service provider as the employer;
 - Prior notification by service providers of the intended posting. This is a basic mechanism, already in place in many Member States to ensure effective monitoring and control;
 - The requirement to keep and store relevant documents in the territory of the host country; and
 - The fight against bogus self-employment is crucial to halt potential abuses. In particular, the competent entity must be given the means to verify that the “self-employed worker” is not repeatedly employed for a substantial part by the same employer and that there is no link of dependency between the self-employed and the employer.
- **Appropriate measures in case of breach of the obligations in the PWD and national law**

Effective and dissuasive sanctions are indispensable in order to protect workers against abuses. In this regard, a joint and several liability mechanism must be introduced. Recent years have seen the increase of subcontracting across the EU. By creating extremely complex networks of subcontractors, general/main contractors can create easy ways to circumvent legal or collectively agreed labour standard and working conditions.

The proposed instrument on posting should stipulate that the general/main contractor(s) is liable for the compliance, by all subcontractors, with the applicable terms and conditions of employment, and social security contributions. The basic principle is that general/main contractors should be encouraged to select bona fide subcontractors and to carry out appropriate supervision.



ETUC Declaration on “EY2012: European Year of Active Ageing and Intergenerational Solidarity”

Adopted at the Executive meeting of 7-8 December 2011

On 6 December 2010, EPSCO adopted the proposal to declare 2012 the « European Year of Active Ageing and Intergenerational Solidarity ». The ETUC and its affiliates subscribe to this initiative and plan to play a full part in it – as it did in 2010 for the European Year Against Poverty and Exclusion

Reconciling the different needs of younger and older people, and aligning them with those of society overall is a considerable challenge for policy makers and the trade union movement in particular.

The ETUC together with its pensioners’ organisation FERPA sees the problems raised by the pace of demographic development as an opportunity for the younger and older generations to get to know each other better and to meet in a different manner based on mutual respect.

Active ageing and intergenerational solidarity: for the ETUC these are multifaceted concepts which are not incompatible.

All too often these terms are perceived or presented in a reductive way.

When we think of « active ageing » we think primarily of the place and role of older people in society, their living conditions and the way to “grow old well” or even of their continuation in the “labour market”.

And so when the idea of « intergenerational solidarity » is evoked, we think often and firstly of social transfers between generations and especially, in the framework of financing of contribution-based pensions – or “Social Security” pensions – the financing of old-age pensions by those still active in the job market and particularly by young people

These kinds of approach are certainly important; but for the ETUC they alone would not cover the complexity of the approach.

A priority: act at a high level on employment of older and younger workers

Allowing workers to both

- remain in a quality job until the « legal » minimum age of retirement rights (which must take into account hardship and length of career)

- and to grow old in good conditions

demands first of all action at a high level, i.e. primarily on employment policies applied in Member states and inside companies.

It is not enough simply to « decree » that one must work longer in order to make it a reality. It is still necessary that on the one hand the jobs exist, and on the other that the employers have the wish and the will to either keep their older workers, or to hire some.

- The ETUC reiterates its conviction that : a pertinent response cannot be reduced to simply proposing to raise the legal pension age. ETUC rejects firmly any recommendation aimed at introducing an automatic mechanism to raise the legal pension age or any other uniform solution that would apply to all Member States. (october 2010 resolution)
- What is the situation today ?
- There is a general degradation of employment everywhere, provoked by the crisis and the consequences of budgetary austerity plans, by an increased precarity of employment, a reduction in social services, leading to a slowdown in demand and domestic consumption, also by delocalization of jobs, in the name of a greater search for company profits, by profiting from and thereby encouraging social and/or fiscal dumping between the different countries.

This degradation of employment, the increase in precarity and growing inequality affect not only older workers – even if they are the first to be hit – but also young workers.

Thus, as recalled by Eurostat statistics (Eurostat press release 96/2011) :

- If more than half the population between the ages of 55 and 64 is no longer active on the job market (exactly : 46.3% are still active)
- Only 35% of the population between the ages of 15 and 24 are active on the job market. And when they are employed it is usually in precarious jobs, if not work experience, paid or unpaid.

At the same time, the willingness of employers to keep their older workers, including taking the necessary measures to keep and/or to hire them, is very limited.

A study carried out by the University of Utrecht in the Netherlands proves particularly instructive. Thus we can see that

- only 20 to 40% of employers are ready to encourage their workers to work until the legal retirement age ;
- Less than 20% of them are ready to recruit older workers ;
- Only 30% of them would be ready to introduce flexible working time for older workers ;
- Only 25% would be ready to adopt ergonomic measures to suit them ;

- 20% would be ready to put in place adapted training or to develop partial retirement measures and/or reduced working time before retirement ;
- And even fewer are willing to envisage pre-retirement measures (15%) or exceptional leave (12%) or to reduce both working time and salary (7%)

Conditions of active ageing : quality of work, quality of life

Keeping older workers in the company, but also “active ageing”, are also a result primarily

- of the development and application of lifelong learning, allowing workers to adapt to new activities, new technologies, to the point of enabling them to change jobs;
- of the improvement of working and health and safety conditions in the workplace;
- of taking into account difficulty and/or working lifespan with the possibility of early retirement ...

« Active ageing » therefore means primarily improvement of living conditions. But it is also means mobilizing and perpetual action in favour of working conditions and decent salaries.

Active ageing also means guaranteeing retired persons and particularly women – who, in the course of their working life have earned on average 15% to 20% less than men and make up the largest proportion of “poor pensioners” – a decent pension, i.e. one that allows them to live with dignity, to have access to goods and services – including healthcare – and to take their place in society and not live “on benefits”.

To develop intergenerational solidarity : act equally with and for young people

Building a unified society means building a society where everyone has their place, in which no-one feels excluded, whatever his or her situation : for example, the elderly, the handicapped, ethnic minorities or ... young people !

The ETUC and its affiliate did not wait for the launch of 2012 to unite their efforts in order to care about the situation of young people entering the labour market and to alert policy makers and employers equally to the problem.

Thus, for example, as far back as 1999, FERPA developed a project entitled : « Solidarities between older and younger people », in which it concerned itself as much with the early exclusion of older workers from the labour market as with the insecuritisation of young people on the same labour market.

Equally, in April 2007, the ETUC organised for its members, with the support of the European Commission, two decentralized seminars in Warsaw and Paris on the theme

“Demography and the labour market: a challenge for trade unions”. The objective of these seminars was to create the conditions for the young and the not-so-young to find their place and thereby contribute to the economic and social development of our societies, as well as to their own insertion and social well-being. This, in a perspective of intergenerational solidarity.

Intergenerational solidarity must be the base for the development of each action. In this respect, the trade union movement has always represented the “ideal” arena to pursue the goals of solidarity by and between the different generations.

It is within this spirit of struggle against all forms of discrimination, particularly related to age, that in the framework of the social dialogue, the social partners concluded on 25 march a European Framework Agreement “For an inclusive labour market”.

If progress has been made, particularly thanks to mobilization in this area of workers’ organizations affiliated to the ETUC, it must be acknowledged that there is still a lot to be done, particularly to allow younger workers to enter the labour market as well as allowing older workers who wish to remain in it.

Acting with and for young people today means, for example :

- Fighting against precariousness;
- Avoiding early departure from the education system without qualifications;
- Allowing them to do jobs which are in line with their training, implying that this training should take into account, including in the medium term, the needs of the labour market ...
- But it also means continuing to fight to defend quality Social Security retirement systems based on a unified and perennial financing, in a way that guarantees quality pensions for generations to come.

The commitment of the ETUC and its affiliates during 2012 and beyond

The mobilisation of the ETUC will certainly not stop at the end of 2012, as it did not begin with the start of it.

But, independently of national initiatives which can be taken and applied during this year, the ETUC has already undertaken a specific initiative.

In fact, it has submitted a project entitled : « The year 2012 : For better intergenerational solidarity and for active ageing – overcoming the obstacles to keeping older workers in employment and facilitating access to younger workers” . Through this project, the ETUC in cooperation with FERPA and its Youth Committee plans to benefit from the dynamic offered by the institution of this year 2012, consecrated to active ageing and intergenerational solidarity, to launch in a concerted way a new mobilization on this theme.

In the course of this project, apart from sharing and exchanging good practices applied in different Member states to improve access and/or remaining in employment of all

without discrimination, a **trade union plan of action** will be presented, discussed and published for the attention of organizations and trade union representatives.

It will be angled on three priorities, adopted by the Executive Committee and will confirm them;

These priorities are threefold :

- **Youth employment**, acting principally upon quality of training and jobs proposed ;
- **Active ageing**, mobilizing primarily on working conditions and health and safety in the workplace, whilst allowing employees to retire earlier after long careers or arduous professions
- **The quality of pensions**, guaranteed by Social Security systems and by perennial financing, based on intra and inter-generational solidarity and sufficient to allow all pensioners and particularly women to live in dignity without recourse to benefits.

The ambition of the ETUC and its affiliates

In these periods of crisis and benefiting from the synergies which will be born during this year 2012, the ETUC and its affiliates will mobilize in order to realize synthesis between active ageing and intergenerational solidarity, thorough participation in the labour market. They intend to benefit from te “European Year 2012 for Active Ageing and for Intergenerational Solidarity” to promote, as much for the youngest as for the oldest, equal opportunities in the areas of participation and continuation on the labour market, by awareness raising and mobilization of actors in the field who are the social partners and paying particular attention to women whatever their age. In other words, to reflect on the ways and means to be put in place in each country, to realize this objective, insisting on the aspects of employment and training, be it basic education or lifelong learning. For both are essential factors in order to integrate the labour market, but also to remain in it, particularly by enabling people to confront its evolution.



Perspectives for a new European Health and Safety strategy (2013-2020)

Resolution adopted at the Executive Committee on 7-8 December 2011

Each year, around 160,000 people die in the European Union as a result of illness or accidents caused by working conditions. As the current EU occupational health and safety strategy is due to end in 2012, the Commission would normally be preparing its strategy on occupational health and safety for the period 2013-20. It is therefore deeply concerning that the new strategy has been postponed by the Commission. As a central pillar of the social acquis, this cannot be accepted by the trade union movement.

A strong European health and safety strategy is needed as urgently as ever. In the context of the crisis, our own research, as well as recent evidence from the European Foundation (Eurofound) in Dublin and the European Agency for Safety and Health at Work in Bilbao, demonstrates the increasing rates of health and safety risks at work linked to work intensity and insecurity. Tackling prevention and risk management better, while promoting worker involvement through safety representatives, are key to reducing the economic costs and social consequences of accidents at work and occupational illnesses. This is a fundamental element of a 'good jobs' agenda at European level, and should be linked to the employment package due in March 2012 as a signal of the Commission's commitment to quality job creation and development.

The European Union and all of its institutions must uphold and promote fundamental social rights, including the right of every worker to "working conditions which respect his or her health, safety and dignity" (Article 31(1) of the Charter of Fundamental Rights of the European Union). From this viewpoint, the European Commission and the other European institutions have a duty to improve working conditions.

Active ageing requires an ambitious and strong health and safety agenda – it is therefore all the more appropriate that the new health and safety strategy should be published in the European Year of Active Ageing (2012).

The gulf in terms of working conditions between the different European Union countries is not getting any smaller, while within individual countries, that gulf increases the higher the position held in the social hierarchy. Some 59% of workers within the European Union say that they will be able to continue to do the same work by the time they reach the age of 60. This proportion drops to 44% for the least qualified blue collar workers. Between 2000 and 2010, the gap between these two categories rose from 21% to 27%. The segregation that characterises many professions and business sectors has led to significant differences between men and women in terms of their working conditions and the impact of the latter on their health.

The ETUC intends to use this resolution to highlight the issues that it sees as crucial to address in the forthcoming strategy, which we demand to see published in the course of 2012.

Our proposals focus on two aspects: 1) H&S structures must be improved in order to avoid knee-jerk reactions, and 2) priority must be given to improving H&S at work in general not only preventing accidents.

1. *Improving the structures of H&S systems*

Experience gathered in several countries has shown that it is helpful to adopt a strategy that combines health and safety representations within companies with regional or site representations for very small companies. The Community strategy should set the minimum targets that each national inspectorate should meet, indicating minimal quantitative objectives, such as a ratio of at least one OSH field inspector per 10,000 workers, a sufficient ratio of inspectors per 1,000 companies and a higher probability of inspection for all companies. Effective sanctions should be taken against employers not respecting their legal requirements. The next Community strategy must set the minimum targets to be met by multi-disciplinary, competent and independent workplace H&S services.

2. *Unions: a key player at all levels*

Unions through their activities have a key role to play in giving new impetus to the EU's health and safety policy. This activity rests on the promotion of the role of worker H&S representatives, increasing the visibility of workplace H&S problems, supporting the definition of collective priorities and mobilising workers to improve working conditions. The ETUC is calling for the introduction of a system to enable the representation of workers in all companies. Worker participation is key at all levels. Experience shows the benefit of an approach combining company-based representation with a regional or site approach to cover very small companies. Trade union health and safety policy is inseparable from industrial relations and collective bargaining systems as a whole. It must consider ways of better organising precarious workers, migrant workers, self-employed workers, and others often neglected by health and safety at work measures.

3. *Improving prevention of work-related illnesses*

It is in workplace health that the Community policy can provide the greatest added value, as it is this area that the current strategy has been less effective. ETUC priorities for the upcoming strategy are focused on three main areas: reducing exposure to hazardous substances and, specifically, preventing work-related cancers, preventing musculoskeletal disorders and improving mental health at work.

3.1. *Using REACH to provide workers with enhanced protection against hazardous substances*

The primary cause of work-related death is exposure to hazardous substances. The ETUC insists on the vital synergy between the gradual implementation of REACH and the improvement of H&S in the workplace. A potential improvement of REACH must be exploited through a systematic strategy based on workplace H&S. REACH should provide more extensive information on chemical substances and the conditions for their use; encourage the substitution of those substances that are of the greatest concern; and, put in place mechanisms for companies that use chemical substances to provide feedback to manufacturers, thus increasing the opportunities for monitoring by public authorities. The ETUC has been involved in the activities of the European Chemicals Agency (ECHA) in a bid to increase effectiveness, transparency and union participation these different areas.

It is unacceptable that the revision of the Directive on the protection of workers against carcinogenic agents has taken over ten years without any substantial results achieved. It is vital that the scope of the current directive be extended to include substances that are toxic for reproduction. The substitution of the most hazardous substances must be the first priority for effective prevention. When substitution is technically impossible, exposure should be reduced to minimal levels. Exposure limits must be stipulated for the main substances covered by the directive. A coherent European policy must be drafted on nanomaterials and endocrine disrupters.

3.2. *Making progress in the prevention of musculoskeletal disorders*

A framework directive on the prevention of musculoskeletal disorders is crucial to provide a common legislative basis for efforts to prevent these disorders – efforts which must be intensified. It should address all factors that contribute to musculoskeletal disorders and particularly work organisation and work intensity.

3.3. *Mental health: too often neglected*

The links between mental health and employment and working conditions are significant. Restructuring, unemployment, precarious employment and poor working conditions are behind major social inequalities from the point of view of mental health. All the surveys conducted on working conditions show that stress is a serious problem affecting an increasing number of workers. Besides, there is a significant link between working conditions and depression or burn-out. Monitoring workers' working conditions more closely is crucial to preventing mental health problems. Effective prevention must also address the unequal overall distribution of work between men and women, the lack of democracy in the workplace and the different factors behind discrimination, harassment and violence.

4. *The international dimension*

The process of improving working conditions within the European Union is not divorced from broader developments at international level. The ETUC is therefore calling for the conventions of the International Labour Organisation to be ratified and will shore up its cooperation with unions from other parts of the world. It also wishes to reassert its support of demands for a global ban on asbestos.

ETUC ACTION PLAN FOR 2012

Trade union actions and initiatives

1. The ETUC calls on affiliates to actively lobby their governments and MEPs through all means to press for the publication of the new OSH strategy.
2. The ETUC calls on its affiliates to organise activities on the 28th April 2012 and during the EU Health and Safety Week in 2012 in order to support the demands to “Expand workers' health and safety representation and enhance representatives' rights” and “boost the role and resources of labour inspectorates”. The ETUC will collect information from its affiliates and circulate this information in order to give a European dimension to the coming 28th April Worker Memorial Day.
3. The ETUC will organise an exchange of information with European trade union federations on the OSH priorities in order to explore the possibility of a stronger cooperation. A seminar on the role of sectoral social dialogue will be organised.

4. The ETUC will strengthen cooperation with the affiliated confederations in countries which are not members of the EU in order to identify common OSH priorities.
5. In cooperation with ETUI, the ETUC will strengthen the existing networks on chemicals and REACH implementation, and standardisation. In the field of standardisation, work on the impact of the standardisation of services will be strengthened with the European trade union federations.
6. The ETUC will work closely with the European Trade Union institute and launch initiatives to strengthen exchanges of experiences between trade unions and the various health and safety bodies as regards risks connected with organisation of work, like psychological and social factors. The ETUC will support cooperation between trade union organisations with a view to ensuring that European agreements on stress and violence actually result in tangible improvements.

EU legislation and policies

The priorities of ETUC for 2012 are:

- a) the adoption of a new OSH strategy 2013-2020. The trade unions will work at European and national level to ensure that the new strategy sets concrete targets, tackles actual priorities and helps make a real improvement to health and safety.
- b) REACH: we aim to guarantee consistent implementation and make sure that the trade unions' views are heard during the REACH evaluation that is scheduled for 2012.
- c) the revision of the directive on carcinogens at work is a key factor in the synergy between REACH and OSH legislation
- d) the adoption of a directive on MSD
- e) the adoption of a regulation on standardisation
- f) the adoption of a comprehensive policy covering the various issues linked to asbestos, in terms of both worker protection and compensation for illnesses and protection of public health.

EU OSHA European Campaign 2012-13

The ETUC considers the European Agency for Health and Safety at Work's European Campaign "Better Health and Safety through Prevention" (2012-2013) to be an important awareness-raising opportunity. It will be aimed at improvements in cooperation between both sides of industry on behalf of better working conditions and higher standards in health and safety. Worker participation on health and safety will be a central theme. The ETUC as a Campaign Partner will promote products co-developed by the Bilbao Agency as well as own products or products developed in cooperation with the ETUI.



ETUC resolution on a renewed EU strategy 2011-14 for Corporate Social Responsibility (CSR)

Adopted by the Executive Committee on 7-8 December 2011

Introduction

1. The Commission's Green Paper on CSR in July 2001 - followed by the implementation of a Multi Stakeholder Forum (MSF) - raised the trade union movement's expectations of CSR in a number of respects. However, the way in which the discussions (which ended on 29 June 2004) unfolded in this MSF and the gradual transfer of this issue from the Directorate-General for Employment to the Directorate-General for Enterprise prompted the ETUC to adopt a resolution that strongly criticised the whole enterprise (Executive Committee meeting of 9 and 10 June 2004).
2. The failings of the Communication from the Commission of 22 March 2006, the definition of CSR given there¹ and the establishment of a 'European Alliance for Corporate Social Responsibility' open only to businesses, but effectively responsible for implementing various aspects of the Communication, ultimately caused NGOs and the ETUC to withdraw from the Community process to invest elsewhere.
3. A new Communication was announced in 2010. The new text [COM(2011) 681] from 25 October 2011, which conceded that "important challenges remain" despite the progress made, contains significant improvements vis-à-vis the Communication from 2006. It set out commendable intentions, but still insufficient concrete actions.

Real progress made in "A renewed EU strategy 2011-14 for Corporate Social Responsibility"

4. The new definition of CSR (item 3.1) refers to "the responsibility of enterprises for their impacts on society", which also appears in the United Nations' Guiding Principles on Business and Human Rights. Besides, it is rightly indicated that "[r]espect for applicable legislation, and for collective agreements between social partners, is a prerequisite for meeting that responsibility".
5. Emphasis is placed (item 3.2) on internationally recognised principles and guidelines (the recently updated OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, etc.) as well as specifically lobbying European companies and the Member States about them (items 4.8.1 and 4.8.2).

¹ Definition: "a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis".

6. The Commission also acknowledges (item 3.6) that “CSR contributes to and supplements social dialogue”. The EU will actively support international agreements but is limiting itself to launching a database.
7. The agenda for action 2011-2014 (item 4), which officially comprises 18 initiatives, provides additional possibilities for reinforcing the obligations of multinational enterprises to comply with labour standards. Priority is given to sectoral strategies and responsible practices throughout the supply chain. However, a clearer explanation in the CSR definition of companies’ ‘direct and indirect’ responsibilities, including outsourcing, would have been welcome.
8. As announced in the Single Market Act, the Commission will also submit “a legislative proposal on the transparency of the social and environmental information provided by companies in all sectors” (item 4.5), probably around the middle of 2012.

However, the progress made is a long way from being sufficient!

9. Against the backdrop of the financial, economic and social crisis, the dominance of neo-liberal policies and heightened competition, there is nevertheless justification for fearing that more European companies will consider CSR to be a ‘luxury’ and will show much less respect for human rights, labour standards and environmental concerns. It is apparent that concrete/binding measures are needed in several areas.
10. The Commission effectively (item 3.2) gives equal importance to the OECD Guidelines, the ILO Tripartite Declaration of Principles, and for instance the Global Compact principles, although everybody knows that these principles are more a declaration of intent than a genuine, credible attempt to promote CSR. Accordingly, the hierarchy of these sets of principles needs to be reviewed.
11. In addition, the Commission intends (item 4.1) to create sectoral platforms and launch a European award scheme for CSR partnerships, without specifying how it plans to implement these plans. It should be remembered that the trade union movement was not consulted a few years ago when a similar initiative was taken to reward the most socially responsible European companies. Furthermore, while one of the multinational winners had implemented some interesting projects, it was well known that they were flouting trade union rights.
12. While we are glad that the Commission (item 4.2) is addressing the issue of unfair commercial practices related to the environmental impact of products, we note with regret that the report on the application of the Unfair Commercial Practices Directive foreseen for 2012 does not make any mention of social issues.
13. Similarly, there is clearly a discrepancy between environmental and social concerns in the chapter entitled “Public procurement”. Whilst the ‘Buying green’ handbook on environmental public procurement was adopted in 2005, it took five years before the Commission published its equivalent in the social domain. Particular vigilance will therefore be needed (item 4.4.2) to ensure better integration of both social and environmental considerations into public procurement as part of the 2011 review of the two Public Procurement Directives.
14. The ETUC will also ensure (item 4.8) that the European agreements concluded with other countries and regions around the world explicitly state that the “parties

concerned will endeavour to ensure that companies operating in or from their territory are responsible for identifying, anticipating and alleviating any actual or potential impacts” they might have.

15. The Communication does not refer to any possible changes in the composition of the Business Alliance. While throughout the CSR process everybody has admitted the need to adopt a balanced, multilateral approach that considers the opinion of *all* stakeholders throughout the CSR process, in reality the Alliance and CSR Europe have a stranglehold on the process in Europe.

Conclusions

16. The ETUC endorses the new Communication from the Commission on CSR, particularly the new definition of corporate social responsibility as well as a precise agenda for action for 2011-2014.
17. Yet in the context of the crisis and heightened competition, European companies may pay less attention to social and environmental standards, particularly when operating outside the EU. CSR cannot be just the proverbial good tree that hides a forest of bad practices. It is not enough to “invite” companies to act responsibly; more concrete/binding measures are needed. The desire expressed in 2006 to “make Europe a pole of excellence on CSR” has been relinquished.
18. The ETUC will take the opportunities afforded by the agenda for action 2011-2014 to make improvements to that agenda on the basis of our trade union priorities. The Secretariat will coordinate these actions with the members by setting up an ad-hoc working group in 2012, which will also be responsible for reporting on changes in positions and the recent experiences of members in terms of CSR.
19. Finally, the ETUC will endeavour to promote unionisation and compliance with trade union rights everywhere and will urge companies to adopt an open and proactive attitude to the trade union movement. In the words of J. Ruggie (UN Special Representative, November 2009, Stockholm): “The presence of trade unions is the most effective monitoring system and mechanism for addressing grievances”.



ETUC Resolution on workers participation at risk: towards better employee involvement

Adopted at the Executive Committee in Brussels of 7-8 December 2011

The mandate of the ETUC Congress

1. The “Strategy and Action Plan”, as adopted by the 12th ETUC Congress, specifies that **“worker participation is a key component of good jobs”** and the **“right to participation is a fundamental right in Europe”**. The Athens ETUC Congress 2011 upheld that it is necessary **“to establish a European basic standard”** while respecting different national traditions of workers’ involvement¹.
2. The Congress has given a clear mandate to the ETUC secretariat to fight for stronger rights: **“There should be a strengthening of worker voice through stronger rights for information and consultation and, in those Member States where such rights exist, a stronger right of representation for workers on company boards. There should be also more worker and other stakeholder participation and a new paradigm for corporate governance ... in which the European Works Councils must play a fundamental role.”**
3. Furthermore, the ETUC Congress demanded **“European minimum standards for worker participation in order to strengthen the implementation of worker information and consultation rights in the EU and to confirm that the EU respects and promotes different forms of board-level representation in European legal entities like SE, SCE and SPE and in the Member States where such systems exist.”**
4. The ETUC Congress demanded **“that a legislative general framework instrument be developed to achieve better coherence in the rules on worker participation for SE and SCE companies”**. This strengthening of rights concerns all existing, pending and upcoming legislation on company law, in particular on the European Company (SE), the European Cooperative Society (SCE), the European Private Company (Societas Privata Europaea; SPE): **“All the legal forms of company entity at the EU level (SE, SCE, and pending SPE) must be subject to binding regulations on worker participation in company boards and on information and consultation with worker representatives regarding cross-border issues”**.
5. A strengthening of worker rights of information, consultation and participation is key. The Strategy and Action Plan stipulated: **“The rights of information, consultation and participation in restructuring and change of ownership situations must be improved to ensure adequate ‘voice’ for workers and opportunities for trade unions to**

¹ The term employee involvement includes 1) information (one-way communication from management/employer), 2) consultation (two-way communication between management and workers’ representatives) and 3) participation (board level representation).

negotiate fair solutions on their behalf.” This process should take place “in a context of upward harmonisation”.

6. These commitments of the Athens Congress in favour of a new model of corporate governance and stronger rights are not easy to fulfil, but quite a challenge for the ETUC secretariat. However, it can build on work done in the ETUC Workers’ participation group.

Introduction

7. The main reason for this resolution is to identify potential risks and attacks on workers involvement and to propose action to counter these developments. On the agenda of “Work Programme 2012” of the Commission published on 15 November 2011 features the revision of the Directive 2001/86/EC on **employee involvement in the European Company**: “The initiative would aim to bring about *simplification*”. The objective would be to assess “whether the reasons for the smaller-than-expected number of SEs established to date is linked to the mechanisms laid out in the Directive or the Regulation and the extent to which a simplification of such mechanisms could be justified”. The “main problems” which this initiative intends to address are “in particular the rules on employee involvement”, “the scope of the ‘before and after’ principle”, “double requirements when a European Works Council already exists”. The question is “the extent to which a simplification of such mechanisms could be justified”. The timetable of the roadmap announces a second phase consultation of social partners in the first quarter of 2012. If Social partners do not decide to enter into negotiations following the second phrase consultation, the proposal could be presented in the third quarter of 2012.
8. The second roadmap is on the **Statute for a European Company (SE)**: the Commission is reflecting on possible amendments to the SE-Statute in view of legislative proposals in 2013. As “problems” are identified: the lack of uniformity of the SE legal form across the EU, the high degree of complexity, a high minimum capital, the obligation to have the registered office and the head office in the same Member State, the SE’s employee involvement rules, the activation of shelf SEs. The Commission considers the “review” in parallel to the outcome of the ongoing negotiations on the SPE-Statute. The main policy objective would be “to modernise, *streamline* and make more effective and attractive the operation of the SE”. From the Commission point of view, the option to address the problems would bring “more advantages to enterprises” and would “entail *simplification* and reduction of administrative burdens”. The ETUC will not accept that workers involvement is sacrificed on the altar of the “better regulation”- or an highly ideological internal market agenda.
9. The third roadmap schedules a consultation on the Revision of Directive 2003/72/EC on **involvement of employees in the European Cooperative Society** in the 1st quarter 2012 and a second phase either in the 4th quarter 2012 or if social partners do not decide to enter into negotiations in 2013. The objective is to assess whether

existing arrangements on employee involvement “may be considered responsible for a very small take up of this legal framework and identify any feasible possibilities for *simplification*”. Both issues are dealt with under the premises of the better regulation agenda, the new codeword being “simplification”.

10. In the field of company law, the guiding principle anchored in the SE and SCE Directives (recital 3), according to which companies are not allowed to make use of European legislation so as to reduce or circumvent existing national participation rights, is losing ground. Provisions related to the negotiation of board-level employee representation in the cross-border merger (CBM) Directive already presented a cutting back compared to the SE pattern. A similar assessment could be drawn about the proposal for a European Private Company (SPE) and doubts are legitimate as regards the forthcoming proposal related to the cross-border transfer of companies’ registered office. While national and European rights of information and consultation remain untouched in the CBM Directive and projects for the SPE statute and the cross-border transfer of registered seat, existing rights for board-level employee representation are under big pressure.

Addressing the failures of corporate governance

11. The current discussion on the global economic and financial crisis focuses mainly on financial and monetary issues. However, the failures of corporate governance in controlling risks and in promoting sustainable corporate decision making are still unresolved. The shareholder value paradigm has dominated policy debates and company law for more than two decades in Europe and much of the rest of the world. This shareholder short-termism model is one of the major causes of the crisis. It creates powerful incentives to create shareholder value by externalising costs onto society; it favours excessive risk-taking and myopic management decisions by insisting that shareholder value ought to be the only goal pursued by corporate management. Questions must be raised how the flawed basic assumptions of the model, that stock markets are the best yardstick for company value and share-based remuneration the most efficient way to reward top management, can be directed in a more long-term and sustainable way of corporate governance.
12. For the ETUC, the answer to shareholder economy and short-termism is to safeguard and develop employee involvement rights and practice in all kind of companies. The lesson of the crisis is to develop workers’ involvement on all levels. A stronger participation of workers in strategic business decisions which are often taken at European or global level is necessary and the current crisis must be considered as opportunity to strengthen worker involvement to strengthen the long-term viability and sustainability of companies. A company is a social organisation with cooperating parties and conflicting interests. A corporate law that gives control rights by default exclusively to shareholder exposes executives to strong pressure to maximise returns to shareholders in the short term. Managerial autonomy is one of the mechanisms to govern an enterprise in the interest of all stakeholders.

13. The question of industrial or social democracy is a key question of the 21st century and the future of Europe. If the European integration continues to be perceived as doing damage to Social Europe, as stirring Europe in permanent austerity governance, it will generate an unprecedented anti-European backlash in many Member States. Today, there is already a negative shift in public opinion towards the Internal Market: 62% believe the Internal Market only benefits big companies; 58% think that it has flooded the Member States with cheap labour (Special Eurobarometer 363). From an ETUC perspective, it is essential that there is light at the end of the tunnel. The financial crisis led to a power shift from democracy towards financial industry. It is time to shift it back: The way must be paved for a new era of more democracy at the workplace, stronger industrial policy, and stronger workers' participation rights. This objective is an ambitious one and will not be reached within a few months but it should be possible to introduce a new momentum into these developments. And the ETUC believes that there is a strong momentum for strengthening workers participation in Europe.
14. The SE-Directive has set a political precedent. For the European Company Statute (Societas Europaea, henceforth: SE) a historic compromise around the involvement of workers was found after 30 years of discussions and negotiations. The ETUC considers this compromise as the benchmark for any EU legislation touching upon board level representation and a step towards a European minimum standard on participation rights which now has to be taken as basis for a deepening and an extension of those rights, for promoting board level representation in the 16 EU Member States where such systems exist (AT, CZ, DE, DK, ES, FI, FR, GR, HU, IE, LU, NL, (NO,) PT, SE, SI, SK) and in European legal entities. Employee involvement in the decision making process at company level is a central component of the European social model.
15. The EU has adopted a rather disjointed acquis concerning employee involvement. It presupposes existing national systems of employee involvement. Currently, in Poland for instance the system of board level representation is being abolished which sets a major backlash. What is needed is common requirements for employee involvement.

Activities on European level and next steps for the ETUC

16. In June 2011, the ETUC responded to the European Commission consultation on the results of a study on the implementation of the Statute for a European Cooperative Society (Societas Cooperative Europaea, SCE). In July 2011, the ETUC gave its response to the European Commission Green Paper on "The EU corporate governance framework", which has neglected the benefits of European Works Councils, International Framework Agreements and board-level employee representation in reorienting the way companies are governed towards a longer-term and more sustainable perspective. Reports on both issues are under discussion in the European Parliament (EP) and scheduled for adoption in February respectively March 2012. The ETUC has to make sure that the compromise on workers' involvement in the SCE will not be questioned and that some general conclusions on the promotion of workers' involvement will be supported by the EP.

17. In the European Parliament, an own initiative report on the 14th Directive on transfer of seats is under discussion and scheduled for approval by the EP Plenary in February 2012. The discussions on the proposed SPE Statute have further highlighted the need to ensure that businesses do not abuse the opportunities offered by the internal market to evade their legal obligations that would otherwise be applicable under national law. Accordingly, the ETUC is renewing its call for an open debate on a **14th Company Law Directive on cross-border transfers of registered offices**, based on the minimum requirements on workers involvement anchored in the SE-Directive and with a view to preventing the establishment of 'letterbox' companies. Such an initiative is an essential prerequisite to any further development of European company law, including in particular the adoption of the SPE Statute. The ETUC will monitor closely the developments and try to make sure that the reference point will be the minimum standard anchored in the SE.

18. On November 15, the European Commission published the results of the consultation on corporate governance ("feedback statement") and intends now to combine it with the company law stream. It is not clear in which direction the Commission will go, but it seems that harmonisation and flexibility are still high on the agenda. It must be clear for the Commission that workers' right to information and consultation within the undertaking is considered a fundamental right according to Article 27 of the EU Charter of Fundamental Rights (CFREU) guaranteeing the "worker's right to information and consultation in the undertaking". The Commission, has not only to respect but also to promote these rights (Article 51(1) CFREU). Article 152 TFEU which has been introduced by the Lisbon Treaty as the main improvement in the Social policy Title requires the Union (and its institutions) to promote the role of Social Partners at EU level and to "facilitate dialogue between the social partners, respecting their autonomy". Against this legal background, in particular the Commission is obliged to do all it can to improve the information, consultation and participation at the appropriate levels. Further, the EU should, according to the Treaty, support and complement the activities of the Member States in this field and may to that end adopt minimum directives (Article 153 TFEU). The ETUC must stress these facts and try to convince the Commission that strengthening of employees' involvement is a step in the direction of less short-termism and less shareholder value, more stakeholder value and sustainability, in short: it would be a step towards a sustainable company. The Commission shouldn't look at companies as money-machines seeking the highest returns from global markets.

19. The Commission must understand that the compromise found for the SE is a yardstick and that it was wrong not to respect this minimum standard in the cross-border mergers directive and the proposed SPE, both representing backward steps compared to the SE provisions. The Commission must come back on these and further issues: Problems with shelf SEs must be tackled and the question of employment growth as "structural change" which makes it necessary to renegotiate the participation rights. Forms of escape from co-determination (e.g. by choosing a legal statute provided by another Member states, such as the British public limited company statute) should no longer be possible; existing loopholes and bypass strategies must be addressed and tackled. The Treaty is clear on this issue and explicitly asks to "support and complement" and thus prevent circumvention of co-determination and other forms of

workers participation: “With a view to achieving the objectives of Article 151, the Union shall support and complement the activities of the Member States in the following fields: (e) the information and consultation of workers; (f) representation and collective defence of the interests of workers and employers, including co-determination (Article 153)”.

20. It is not acceptable that the European Commission does not respect the minimum standard of worker participation as anchored in the SE and tries to dilute it further. The first step backward was done with the Directive on cross-border mergers, the next with the European Private Company. The ETUC asks for the minimum standard of the SE being generalised to all other legal forms, the European Private Company, the cross-border mergers and the forthcoming 14th Directive on the transfer of seat. There is a real and unique chance to do some steps to extend this minimum standard on participation rights. Once the SE-provisions on workers participation established as minimum standard, there will be less ambiguity about the Commission position on workers involvement.
21. The ETUC is strongly opposed to the Commission’s proposal for a **European Private Company Statute**. Whilst the ETUC encourages initiatives that improve market conditions for businesses and welcomes any proposals designed to improve the market performance of SMEs, it is adamant that the flexibility of SMEs must not be enhanced to the detriment of workers’ rights to sit on the Boards of their companies. It is crucial that the SPE Statute be accompanied by rules governing minimum standards on workers’ involvement. It is also essential that the SPE does not put national legal forms – and the participation rights that are attached to it – under pressure. A cross border dimension and minimum capital requirements are therefore essential prerequisite to the establishment of an SPE.
22. Overall, the ETUC recommends **a more sustainable approach in relation to workers involvement in European company law**. As business is increasingly becoming global, the Union must reflect if and how a streamlining at European level of the provisions on employees’ involvement can be achieved. Such reflection should not be geared towards downsizing existing national provisions but rather to see how the Union can promote competitive and socially responsible European company forms. The ETUC calls on the Presidency to stimulate such a debate.
23. Following an initial discussion at the Executive Committee, the next steps could include to lobby the European institutions to come forwards with an agenda to promote workers’ participation and to deepen the internal discussion by consulting our experts on other aspects of employee involvement rights like questions of international framework agreements and financial participation. The follow up of the congress should include a conference to discuss and present the ETUC proposals.
24. This work should be done in view of going from a defensive to a more offensive strategy. Until now, the ETUC strategy has been to fight for European Company law respecting national choices for employees’ involvement. The rules of financial capitalism are global, yet, the applicable standards on workers’ participation are still shaped at national level. With ongoing globalisation it is becoming more and more

difficult to defend subsidiarity approaches defending national provisions. As business goes global and ignores national boundaries, a rethinking of the role of workers' involvement in companies can only be meaningful at European level. The aim would be to provide the European Commission, the Council and the European Parliament with an elaborated ETUC proposal for European standards for employee involvement. This standard should help prevent that registration and localization of the company seat can be organised with a view to avoid workers' participation. A good starting point for this work is the fact that employee influence is now a fundamental right under the Treaty (TFEU).



The proposed EU Multiannual Financial Framework and Cohesion Policy 2014-2020: ETUC position and call for consultation

Adopted at the Executive Committee on 7-8 December 2011

Foreword

On the **26 June 2011** the Commission issued **the proposal on “A Budget for Europe 2020”**, defining the new EU financial perspectives for the period from 2014 to 2020. On the **6 October** the Commission published its proposals for **the Regulation** covering all the EU structural instruments and the legislative package of EU regional, employment and social policy for 2014-2020.

These proposals have been submitted to a **Structured Dialogue with civil society and stakeholders** (associations of local public authorities, NGOs, social partners, citizens...). This procedure should be concluded by the end of the year and **in January 2012 the Commission should issue the last proposals’ package**, to be submitted to the EU Parliament, the Council, the Committee of Regions and the Economic and Social Committee.

The ETUC deepened the discussion with the affiliates on the Commission’s proposals in the last months, in the **Economic and Social Cohesion Working Group** and in the **Executive Committee in October**, also on the basis of the last EC’s Resolution adopted on 8 and 9 March 2011.

The Executive Committee on the 19-20.10.2011 produced a **Discussion Note** on this issue, that is a background document for this draft Resolution.

The economic context

To carry out an adequate analysis of the new European financial perspectives we can’t avoid considering **the general context of deep economic crisis**, which has radically changed the premises upon which the Europe 2020 Strategy was based.

The goals and instruments contained in the Europe 2020 Strategy, which are fundamentally positive, must be better focused and adapted to the altered situation. This should be done within the framework of a regulated and inclusive labour market, one that offers European citizens opportunities for quality and stable jobs in line with the skills they have acquired.

Structural Funds are not sufficient, on their own, to tackle the crisis. Europe needs **different Economic Governance**: one based on investments, solidarity and social integration instead of blind austerity. **The EU Budget has to be reformed according to these principles.**

ETUC position and call for consultation

Partnership principle and consultation of social partners

1. The ETUC asks the Commission for a **formal consultation, reserved for social partners, on the whole proposed new EU budget and Regulations of the Structural Funds**, because the extraordinary context of the economic crisis requires a proper involvement of social partners and greater than in the past, in addition to the Structured Dialogue already launched by the Commission with the larger civil society. **The Social Partners in fact hold a high level of representativeness between employers and employees** and could bring a strong contribution in defining objectives and achieving results of the cohesion policies.
2. The ETUC believes that the partnership principle has a key role to play in ensuring that measures related to the EU Structural Funds function properly. **The Structural Fund Regulations need to clearly define the partnership principle** instead of merely referring to "current national rules and practices", while at the same time **clearly defining the role of each partner at national, regional and local level.**
3. **Social partners must have access to technical assistance** in order to ensure not only the strengthening of their capacities but also their **coordination and representation in the ad hoc committees and decision-making procedures**, which define and implement the Operational Programmes, at all levels.
4. The current way of consulting social partners together with Member States in the ESF Committee could be a good basis for extending it to all Funds. **A permanent tripartite Committee (EU Commission, MS, social partners) concerning the whole Structural Funds** has to be set up, preserving at the same **time the ESF Committee in the existing form.**

Incomes, fiscal measures and budget's amount

5. **The ETUC welcomes, in principle, the Commission's proposals for an FTT and a harmonised European VAT.** However there is concern that the EC proposes that **revenues raised from an FTT should be used to offset member states' contributions rather than to fund investment.** This would undermine the initial objectives of the ETUC campaign calling for an FTT. **The Commission's proposed FTT would strike at the financial speculators, but would not gather additional resources to support sustainable development and economic growth.**
6. There is the possibility that the FTT would not be approved in the European Council, or that it could be approved with a reduced scope. **In this case it would be very important to assure that the whole EU budget would not be cut.**
7. **Under the Commission's proposal, the total amount of the EU budget would, in any event, be decreased despite the introduction of the FTT and the increase of European Social Fund.** The ETUC has previously requested an increase in the EU budget and our first priority is to, at least, preserve it at its current level. The position of some Member States that are seeking to **freeze the EU budget and reduce the amount of the**

Structural Funds is worrying and unacceptable, especially in the current economic context.

8. In any **harmonised European VAT** it would be important that Member State **specific zero-rates and exemptions are retained** (e.g. the UK exemption on food).
9. The ETUC supports **the proposals, which aim to introduce Eurobonds and Euro Project Bonds**. These tools would be useful not only to address public debts, but also to improve investments and economic and social cohesion.

Social priorities, European Social Fund, European Globalization and Adjustment Fund

10. **The EU budget has to be strengthened especially in the chapters supporting economic growth, social cohesion, education and training, innovation, green economy and sustainable development, at national and regional level.** Cohesion policy is not just about reducing disparities between regions, although this must remain a key objective. It must also be about promoting a society enjoying full employment, equal opportunities, social integration, thereby generally strengthening the European Social Model. **These are the priorities on which the new EU budget should be focused.**
11. **The European Social Fund should be the instrument of choice for supporting the implementation of the European Employment Strategy** and it must retain this role within the Europe 2020 Strategy. In the current exceptional context, the ESF must also be focused on **fighting the economic crisis and on protecting workers and the most disadvantaged citizens from its effects.** Concretely it must provide **support to the people who have lost their jobs and need to be integrated in the labour market.**
12. **The ESF should also become an instrument in promoting decent work.** Mobility should be supported by ensuring **the concept of “fair mobility”**, fighting social dumping, ensuring that labour standards and legal requirements are always fully respected. In order to exclude the disadvantages of mobility, jobseekers and mobile workers must be comprehensively **informed and advised.**
13. **The European Regional Development Fund and the European Social Fund must particularly support the challenges of the structural change the process of “Greening the Economy” will bring along.** The ESF has to support workers whose qualifications have to be changed or who lost their jobs and need to be reintegrated in the labour market.
14. **In the ETUC’s opinion, the ESF is not the proper tool to address fight against poverty and food aid**, as proposed by the Commission. These objectives could be better achieved by the ERDF.
15. **The ETUC considers that the European Globalization and Adjustment Fund must be included in the ESF**, in order to better focus on unemployment and to facilitate its use, as to ensure the same coherence between the principles of both Funds, above all concerning partnership and involvement of the trade unions. **The ETUC does not support the inclusion of unemployed farmers within the scope of this fund, either by allocating the bulk of the fund, or even its management, to the agricultural sector.** The Common Agricultural Policy and the “new reserve for crises” in agriculture can provide support for the farming industry more efficiently.

Territorial dimension and categories of regions

16. As it is already the case in the current programming period, the regions would benefit from differentiated support depending on their level of economic development. **However that level should not be measured only on the basis of per capita GDP. Other criteria also need to be taken into account**, including unemployment rates, employment and activity rates, skill levels, poverty rates, and the level of well-being and social inclusion as well as the rate of school-leaving. Furthermore, **the concept of “region” should be assessed carefully and to as local a level as possible**: some regions could appear by most measures to be relatively prosperous (by GDP per capita) but could hide pockets of extreme deprivation.
17. **Regarding the introduction of a new category of “transition” regions**, with an average GDP per head between 75% and 90%, we can accept this measure only if it does **not undermine the level of resources allocated to the less developed regions’ category**.
18. **Regions with specific geographic or demographic disadvantages need more specific support**. This is especially the case where regions on the EU's outer borders, the northernmost regions, island regions or mountainous regions are involved.
19. The cohesion policy's **current Objective 3 referring to cross-border, transnational and interregional cooperation needs to be reinforced**. Macro-regional strategies also need to be sustained. In addition, **the border regions and the Euroregions**, with their increasingly prominent role in the context of the current programming period, must be supported and need to be able to count on the participation of social partners in decision-making bodies and in the implementation of set targets.

Procedures, coordination, performances

20. The ETUC shares the opinion that there is a need to **better coordinate the funds and to improve the evaluation, performance and results of their use**. The ETUC supports also all the measures that aim to **reduce and focus the priorities** of the Structural Funds, to **reduce bureaucratic constraints, to speed up expenditure**.
21. **Performance indicators need, therefore, to be defined, but it is also important to have both quantitative and qualitative criteria**. This includes the evaluation of the results in terms of the efficiency of the measures taken, the quality of the jobs created, and the list of the positive measures implemented to ensure social inclusion.
22. **The ETUC would, however, have serious reservations about an approach linking the granting of social-oriented funds only to results**, especially where "results" are defined in a narrow way. Looking at employment policy and, more broadly, social policies, **long-term and qualitative aspects** are vitally important. Moreover, if the granting of funds is linked to achieving immediate results, this runs **the risk that those who are furthest from the labour market** – and therefore least likely to achieve “positive” results – **will have less or no access to these funds**.

Member States' agreements and conditionalities, co-financing rules

23. The ETUC is interested in discussing, together with other social partners, the new agreements between the Commission and MS on the conditions regarding the use of the EU funds. **The conditionalities should certainly focus on selected and efficient objectives, but must not be punitive to the less developed MS and have to be finalized to sustain economic and employment growth and social cohesion.**
24. **Above all, the ETUC strongly rejects the Commission's proposal concerning the application of financial sanctions and incentives on Structural Funds, linked to the Stability and Growth Pact.** These sanctions would penalize already weak Member States, regions and localities. Moreover, European solidarity, which is still not developed enough, would be jeopardised as a result of failures to respect macro-economic commitments. The result would be the impoverishment of the people of the European Union and thus **contrary to the basic principles of economic, social and territorial cohesion policy as reaffirmed in the Lisbon Treaty.**
25. The problem of the low use of EU resources by MS must also be addressed, by analysing the real reasons for it and identifying **tools and incentives to increase spending.** It would be useful to **adapt the spending rules to the economic crisis and unemployment crisis, by temporarily reducing co-funding obligations for the less developed countries.** The ETUC also asks for a stronger involvement of social partners in the discussion about this "flexibility" in spending Structural Funds in the crisis context.
26. **EU finance for infrastructure projects,** including through project bonds, should be subject to the same rules as the structural funds to prevent any windfall profits for private companies and to ensure that the money is invested to deliver also **the social, economic and environmental objectives.** Where **public procurement** is used in project delivery awards should not be on the basis of 'lowest price' and should include social and environmental criteria.



Resolution

ETUC Declaration on the 50th anniversary of the European Social charter

Adopted at the Executive Committee on 19-20 October 2011

The European Social Charter (ESC) has, since its adoption on 18 October 1961 by the Council of Europe, contributed to the improvement of working and living conditions of people in Europe. It is one of the last safeguards to protect workers and citizens, in particular the most vulnerable. The Charter was the first international social standard to explicitly recognise the right to strike. It was also innovative in respect of the right to work, fair working conditions and fair remuneration to mention some of the 19 social rights guaranteed in the Charter. They must all be fully respected and effectively implemented.

These rights were extended and now form part of the 31 social rights enshrined in the 'Revised European Social Charter' (RESC) adopted in 1996. 43 of the 47 Member States of the Council of Europe have either ratified the original Charter or the revised one. However, only 14 Member States are bound by the Collective Complaint Procedure Protocol which allows trade unions to raise issues concerning violations of the Charter.

At European level, the Charter has served as a point of reference in EU primary law, for example in the recitals of the Treaty on the European Union and in the 'Social policy' Title of the Treaty. Most of the fundamental social rights in the Charter of Fundamental Rights of the European Union are based on the relevant articles of the Charter. Furthermore, the European Courts recognise its importance when interpreting EU legislation or the European Convention on Human Rights.

In times of crisis when social rights are being challenged, and even undermined, it is all the more important that social standards set a minimum of protection. Member States trying to reduce fundamental social rights such as Greece, Hungary, Romania, the Czech Republic, Spain and Portugal would have to justify these measures in view of their obligations deriving from the Charter.

The ETUC has actively contributed to the development of the Charter, taken active part in the supervision procedure and remains strongly committed to the whole system of the Charter.

On the occasion of the 50th anniversary of the Charter, the ETUC therefore:

- recalls the importance of the Charter and its further developments in order to achieve a more social Europe;
- urges Member States to fully abide by their obligations deriving from these social standards and the respective case-law of the European Committee of Social Rights;
- calls on all Member States to use the momentum of the 50th anniversary to adhere

fully to all the instruments developed in the framework of the Charter, in particular the RESC and the Collective Complaint Procedure Protocol;

- underlines the importance of the EU respecting these rights and taking concrete steps to adhere to the pertinent instruments; and
- calls on the Council of Europe and its institutions as well as the Member States to improve the effective implementation of the social rights enshrined in the Charter.

Attachment

ETUC analysis of the European Social Charter and demands to improve its efficiency.

Making European fundamental social rights work effectively in practice

I. Introduction: The European Social Charter as cornerstone of the fundamental social rights protection in Europe

The 50th anniversary of the European Social Charter (ESC) offers the opportunity to take stock of the fundamental rights protection in Europe and to develop proposals to reinforce this protection and to contribute to social progress all over Europe especially in times of financial and economic crisis.

1. Aim of the European Social Charter

- 1.1. Promotion of fundamental social rights based on a human rights approach.
- 1.2. Increasing the Charter's impact in international organisations, the judiciary, national administration, social partners, civil society and citizens.

2. Achievements

- 2.1. The Charter has been further developed mainly by the Turin Amending Protocol (1991), the Collective Complaint Procedure Protocol (1996) and the Revised European Social Charter (1996 - RESC).
- 2.2. The ratification process by the Member States of the Council of Europe has led to the fact that only 4 Member states have neither ratified the ESC nor the RESC.
- 2.3. A new dimension has been achieved by the quasi-judicial collective complaints procedure which offers the opportunity for the European Committee of Social Rights to give fundamental social rights a concrete meaning and a coherent legal background.
- 2.4. The impact of the Charter has increased
 - 2.4.1. Particularly in respect of the development of fundamental social rights in the framework of the 'Charter of Fundamental Rights of the European Union';
 - 2.4.2. In respect of the references in European and national Court decisions.
- 2.5. Positive consequences can be seen in many States in respect of improved legislation and better working and living conditions.

3. Problems

- 3.1. Fundamental social rights are still often considered as '2nd class' human rights. The indivisibility of human rights is not applied sufficiently in practice.
- 3.2. The economic and financial crisis has led to fundamental rights being undermined.
- 3.3. The effectiveness of the fundamental social rights is not sufficient. The number of cases of non-conformity is still high, in particular in sensitive areas such as the right to collective action. Furthermore, problems which sometime have been criticised for decades are not solved by the respective Contracting Parties.
- 3.4. The supervisory system of the Charter is not functioning as it should. In particular, the number of individual recommendations (which are the most severe consequences in cases of non-conformity) has nearly gone down to zero in the last years.
- 3.5. Being applied as much as possible the non-application of certain provisions of the Turin Amending Protocol still causes severe problems.

3.6. Inequalities between the States having /or not having ratified the Complaints Procedure Protocol are growing.

4. Enhancing effectiveness by a new coherent approach for all involved:

4.1. All following proposed initiatives are to be seen as a set of measures aimed at a coherent approach for all addressees.

4.2. The initiatives should reinforce one another.

4.3. A strong political will needs to be developed in a sustainable way.

4.4. In general terms, a strengthening of the ESC and Collective Complaints Procedure is necessary.

II. Initiatives proposed in order to improve the efficiency of fundamental social rights

The ETUC urges

1. the Member States of the Council of Europe and especially their respective Governments to activate the legal framework as well as the practical impact for fundamental social rights by

1.1. Ratifying at the latest until the 20th anniversary of the RESC in 2016 all relevant instruments and accepting the highest rate of acceptance of provisions possible by those countries not yet having done so, in particular

1.1.1. the four countries not yet having any instrument and the countries not yet having ratified the RESC to do their utmost to ratify the RESC while accepting the highest numbers of provisions possible,

1.1.2. the many countries not yet having accepted all provisions of the RESC to accept the highest numbers of provisions possible,

1.1.3. the four countries still not having ratified the Turin Amending Protocol in order to allow its full implementation such as election of ECSR members by the Parliamentary Assembly to guarantee independence and impartiality of the Committee,

1.1.4. the many countries not yet having ratified the Complaints Procedure Protocol;

1.2. Ensuring an effective follow-up of any negative conclusions by the ECSR, in particular by

1.2.1. Initiating at the appropriate (national/regional/local) level the respective changes in law and/or practice;

1.2.2. Monitoring the outcome;

1.3. Reinforcing within the European Union's framework the compliance with and the promotion of the Charter's standards, in particular by applying, in substance, the same approach to the RESC as to the Charter of Fundamental Rights of the European Union in respect of legislative and all policy measures; all institutions and above all the Commission, the Parliament and the Council should follow this equivalence approach and integrate it in their respective procedures;

1.4. Raising of awareness, in particular by

1.4.1. (eventually translating and) ensuring a wider dissemination of the ECSR 's annual conclusions and to at the national level;

1.4.2. Organising seminars etc. in the judiciary, the universities, the public administration, social partners;

- 1.4.3. Using all possible means to introduce the ECS's requirements in legal proceedings;
- 1.5. Improving the reporting to the ESC's Secretariat, in particular by
 - 1.5.1. Sending the reports in time;
 - 1.5.2. Improving the content (i.a. by pointing more precisely to the specific problems in respect of implementation of the Charter's provisions);

2. the Committee of Ministers to open up a new framework for fundamental social rights by

- 2.1. Raising the political profile of the ESC in the activities of the Council of Europe;
- 2.2. Enhancing ratification of the relevant instruments, in particular by
 - 2.2.1. Starting and continuing a general ratification campaign in respect of the relevant instruments – monitoring of the campaign at annual intervals,
 - 2.2.2. Ending ratification of the “Old Charter” (1961 version) and the (1st) Additional Protocol (1988);
- 2.3. Monitoring more effectively, in particular by
 - 2.3.1. Adapting the actual Reporting System by providing for an every two years reporting on most important (‘hard core’) articles (Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20),
 - 2.3.2. Revising of the Rules of Procedure of the Collective Complaints Protocol with the aim to guarantee the coherence between the Reporting Procedure and the Collective Complaints Procedure (v.g. Resolution of the Council of Ministers should be addressed to the Governmental Committee in the Cycle after the adoption of the Resolution to give time to Governments to put measures in place),
 - 2.3.3. Ensuring an effective follow-up to the conclusions in the reporting system and decisions in the complaint procedure system of the ECSR, i.a. by adopting recommendations more frequently and including in the recommendations concrete measures and respective timetables,
 - 2.3.4. Speeding up the internal procedure in order to allow for publication of the report of the ECSR before the time-limit of 4 months;
- 2.4. Starting work on the accession of the EU to the Revised European Social Charter by giving the Steering Committee the mandate (terms of reference) to set up a Working Group with the European social partners as observers;
- 2.5. Strengthening consultation with European Social Partners at all levels;
- 2.6. Increasing budgetary funds for more personnel and promotional activities;

3. the Parliamentary Assembly of the Council of Europe to give fundamental social rights a more prominent role by

- 3.1. Conducting hearings on specific rights on regular basis;
- 3.2. Monitoring and further promoting the role of parliaments in the consolidation and development of social rights in Europe according to Resolution 1824 (2011) and Recommendation 1976 (2011) of 23 June 2011;

4. the European Committee of Social Rights to fully use its powers, in particular by

- 4.1. Creating and/or intensifying contacts and dialogue with relevant institutions like the European Courts (European Court of Human Rights and the Court of Justice of the

European Union) and international bodies supervising fundamental social rights (i.a. the International Labour Office in general and the ILO Committee of Experts on the Application of Conventions and Recommendations in particular, UN Committee of Economic, Social and Cultural Rights) in order to contribute to the coherence between case Law of the different supervisory bodies also in respect of the European Code of Social Security;

4.2. Trying to compensate the prolongation of the reference periods by additional measures such as giving information prior to the normal cycle;

4.3. Organising hearings/consultations with i.a. European Social partners;

5. the Governmental Committee of the ESC to respond effectively to challenges, in particular by

5.1. Reviewing the rules of procedure in order to provide for an effective political monitoring, in particular according to the restructuring and merging the Committee of Experts on Social Security with the Governmental Committee;

5.2. Reviewing the Working methods by providing, in particular, for

5.2.1. A strong position including proposals for individual recommendations against countries that do not submit the reports and/or do not provide in time the ECSR with relevant information;

5.2.2. An annual letter to delegates each year, with copy to (i) their national administration, (ii) permanent representative within the Council of Europe and (iii) the national (representative) social partners, stressing their contribution to the reinforcement of the ESC and referring the national situations of non-conformity, the information provided and the Conclusions adopted by the GC;

5.2.3. An annual decision on the first time 'Negative Conclusion' being assessed orally according to an objective criteria (i) Serious character of the situation, (ii) Importance of the rights concerned; (iii) Number of persons concerned, (iv) Number of collective complaints, (v) Serious threaten resulting from conjectural conditions, etc).

6. the Secretariat of the ESC to strengthen promotional activities by

6.1. Reinforcing awareness raising campaigns within public administrations, social partners and civil society, in particular by

6.1.1. Providing for seminars (including social partners);

6.2. Translating the ECSR Conclusions in all languages of the Contracting Parties;

6.3. Consulting regularly social partners;

6.4. Intensifying cooperation with the International Labour Office.



Resolution

European Commission's Transport White Paper

Adopted at the Executive Committee on 19-20 October 2011

Introduction

In March 2011, the Commission published the White Paper “Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system” aiming to respond to the challenges facing the transport sector. Although the ETUC shares the Commission’s concern that the current transport system is not sustainable, the strategy presented by the Commission does not provide satisfactory solutions to the different challenges. The public service dimension is completely missing in the White Paper.

Furthermore, by setting the target date to achieve a more sustainable transport sector by 2050, the Commission gives up on its responsibility to act, although technological alternatives and short term measures exist that would impact significantly on the urgent need for reducing transport’s share in greenhouse gas emissions. The Commission promotes further continuing transport growth within policy frameworks “relying to the greatest extent possible on market based mechanisms” instead of taking responsibility in regulating trends and habits and in earmarking and using additional financial resources for much needed environmentally sustainable infrastructure.

The public service dimension of transport

Mobility is important both for the quality of life of workers and citizens and for the functioning of the internal market at large. Transport services should allow for the harmonious development of a Member State territory, including its most secluded areas, and express solidarity between all its inhabitants, regardless of their place of residence. Transport, therefore, cannot be treated as an ordinary economic service. This is clearly stated in the European Treaties. Article 14 TFEU expressly recognises the place occupied by services of general economic interest in the “shared values of the Union” as well as “their role in promoting social and territorial cohesion”. According to Article 36 of the legally binding Charter of Fundamental Rights, “the Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with the Treaties, in order to promote the social and territorial cohesion of the Union”.

The creation of a Single European Transport Area, as currently envisaged by the Commission, raises a number of serious concerns. First, the Commission aims to create “a true internal market for rail services” by opening the domestic rail passengers market to competition, which would include mandatory award of public service contracts under competitive tendering. Current rules on public procurement do not sufficiently allow for social and environmental criteria being considered in tendering and they should be revised before any further tendering can take place.

The Commission is simply following an ideological approach and ignores Protocol 26 of the Lisbon Treaty, which underlines the role of local, regional and national authorities to provide SGIs. The ETUC calls on the Commission to recognise the essential role of local and regional authorities in the organisation of their public passenger transport. The EU has been liberalising the transport sector for two decades but no serious evaluation has taken place. In order to learn from its mistakes, the EU needs to analyse the consequences not just in terms of the internal market but also measuring the effects on solidarity, cohesion and subsidiarity.

Secondly, the White Paper disregards a crucial aspect for the sustainability of SGEI: the financial compensation for public service obligation. The Commission is indeed intending to “remove tax distortions and unjustified subsidies” as “undistorted competition is part of the effort to align market choices with sustainability needs (and to reflect the economic costs of non sustainability)”. Without financial compensation, the service provider would not have an incentive to perform tasks which are less economically profitable but fulfil an essential role in terms of social and territorial cohesion. In other words, free competition in the transport sector means that providers would select the most profitable parts of the service. The fundamental principle of accessibility for all users would be disregarded.

Thirdly, the ETUC cannot accept that the costs of transport would be reflected in its price “in an undistorted way”. The idea that public transport passengers should be paying the full cost of the service goes against the concept itself of public service but also counters the efforts to promote collective transport as an alternative to private transportation. Moreover, this means that some regions and services would be disadvantaged, in particular in less populated areas. The principle of universality, which is a defining principle of a public service obligation, would be set aside.

Quality jobs and working conditions

As a counterbalance to the liberalisation of transport, the Commission claims that “market opening needs to go hand in hand with quality jobs and working conditions”. The White Paper, however, offers little solutions in this area. It appears that the Commission adopts a traditional internal market approach, whereby intervention in the social area is not motivated by the need to promote social progress but with a view to create sufficient convergence to remove the barriers to the internal market.

The White Paper encourages the “social partners in view of an agreement on a social code for mobile road transport workers, addressing also the problem of disguised self-employment”. Whilst the ETUC does encourage concrete initiatives aiming at tackling the difficult issue of fake self employment, the proposals exposed in the White Paper are very vague. It seems that the Commission is envisaging sectoral social dialogue to ensure a harmonised set of social, security and competition standards in road transport evenly applicable in the Member States.

The ETUC would like to emphasise that the Commission must not give up its key responsibility with regard to social, security and competition standards. The Commission needs to take measures to better enforce the sectoral legal framework, as well as to consolidate it to respond to the challenges.

The relevant sectoral organisations will have to discuss the opportunity of holding negotiations but already it is clear that this solution on its own cannot respond to the current challenges. The EU has no competence to fully harmonise labour law standards. It can only introduce minimum standards – a “floor of rights” below which Member States are not

allowed to go but which they often improve. Besides, the EU legislator is under the obligation to respect the diversity of national industrial relations systems.

In other words, a European social code cannot mean that the national dimension of labour law should be bypassed. The role of the national legislators and social partners remains essential. A very problematic aspect with regard to cabotage is the lack of enforcement of national labour law and collectively agreed labour standards. More efforts should be put towards the increasing of national and cross border control measures, not their eradication. Moreover, the Commission needs to make sure that Member States enforce the Posting of Workers Directive and that it is implemented and controlled in conjunction with cabotage, and that they ensure that operators meet their tax obligations in those countries hosting cabotage operations.

Furthermore, the Commission proposes to establish in the aviation sector a “Europe-wide minimum service (...) and to encourage the European social partners to address the issue of prevention of conflicts and of disturbance of minimum service in the whole aviation value chain”. The ETUC will strongly oppose any interference with the fundamental rights to collective bargaining and collective action. Article 153.5 TFEU clearly states that the EU does not have any competence regarding the right to strike.

Conclusions

The development of an internal market for transport requires a strategy that takes into account not only economic and environmental challenges but social as well. The Commission should impose rules based on safety, quality, accessibility and respect for the environment and working conditions on all operators on the European transport market. For this, it is necessary to move away from the current ideological approach, according to which the liberalisation of the transport sector is a key principle whilst experience already shows that a free market approach does not per se contribute to the smooth running of public services (for instance the impact of liberalisation measures in the energy sector).

The ETUC therefore urges the Commission to adopt a radically new approach, taking into account the general interest dimension of the transport sector, and to look at labour standards not as a barrier to further liberalisation but as an essential component for the quality and the sustainability of the sector. Free markets alone do not generate sufficient incentives to ensure the fulfilment of public service obligations.

The ETUC supports the ETF proposal to set up a social and environmental observatory to assess the effects of liberalisation in the transport sector to date. The observatory should be responsible for analysing policies and measures related to transport and to make recommendations as appropriate. Assessments and studies that already exist should be disseminated widely. The European transport system will only be sustainable if the social pillar is strengthened. This should include the obligation to establish a social impact assessment before any decision is taken in this area.

The ETUC is calling for a moratorium on liberalisation in the transport sector until a proper evaluation of previous liberalisations has been conducted notably by the proposed observatory.

The ETUC is also demanding that the current public procurement framework is revised to allow for social clauses before any further expansion of tendering can take place.



ETUC Resolution

Climate change negotiations: ETUC resolution on EU position at Durban COP17

Adopted at the Executive Committee on 19-20 October 2011

In December 2011, international climate negotiators will converge on Durban (South Africa) for the 17th Conference of the Parties (COP) to the UN Framework Convention on Climate Change (UNFCCC). With the Kyoto Protocol set to expire in 2012, these international negotiations are crucial to ensuring the future framework for the reduction of greenhouse gas (GHG) emissions.

International Demands: Avoiding a regulatory gap on emissions and implementing Just Transition

1. The ETUC remains firmly committed to the creation of a global, fair, legally binding and ambitious agreement under the UNFCCC, in line with the International Panel on Climate Change (IPCC) recommendations of greenhouse gas emissions reduction for developed countries (including the EU) of at least -25 to -40% based on 1990 levels by 2020, and -80 to -95% by 2050 to avoid an increase in global temperature of more than 2°C by 2100, including provisions ensuring a Just Transition.¹
2. The ETUC urges the EU to speak with one voice and take a unified and strong position in advance of and during the COP17 in Durban.
3. Considering the very slow pace of international negotiations and attempts by certain governments to usher in a 'voluntary pledge' system, it is important to avoid a regulatory gap in international emission reduction commitments and to preserve the legally binding and top-down aspects that a 2nd commitment period could bring. Therefore, in the absence of a global agreement, the ETUC calls for a minimum of a second commitment period for the Kyoto Protocol based on strong and ambitious emission reduction targets, increased transparency and clear monitoring, reporting and verification (MRV). Accordingly, in this case, the ETUC supports the high-ambition model for the second commitment period for the Kyoto Protocol by which:

¹ In recent years, the ETUC has adopted a number of resolutions and positions on climate policy, together with the ITUC, shaped by various studies it has commissioned. This resolution is based on all this work and positions, including on the most recent resolution "for a sustainable new deal for Europe : www.etuc.org/a/7743

- All Annex I (developed) countries, with the currently unavoidable exception of the United States, should join a second commitment period including the highest emission target already ‘pledged’ or more, in function of and with due regard to the IPCC scenario pointing to the need for a reduction of global greenhouse gas emissions by at least 25 to 40% by 2020 from 1990 emissions levels in the industrialised countries.
 - Non-Annex I countries join this effort with voluntary pledges either on emissions reductions or other forms of actions in support of low-carbon development below business as usual, either through the KP or the Long-Term Commitment Agreement (LCA) as appropriate. The ETUC supports the EU’s insistence on clear targets from the emerging countries to cut their emissions in-line with IPCC recommendations.
4. Under this scenario, the Durban conference should also lead to a roadmap designed to bring about such a global agreement as quickly as possible, and could include a review date at 2015 to take into account new scientific evidence from the IPCC’s Fifth Assessment Report in due time.
 5. Whatever the type of agreement to emerge from the Durban negotiations, the ETUC supports the demands of the ITUC, including the demand for the ILO’s role in the UNFCCC process to be beefed up and for it to be given a mandate recognising it as the United Nations agency specializing in labour issues.
 6. Trade unions have long called for a strong social and employment pillar in climate and energy policies. In the Cancun agreement resulting from the COP16 talks, Parties (including the EU): “10. Realize(s) that addressing climate change requires a paradigm shift towards building a low-carbon society that offers substantial opportunities and ensures continued high growth and sustainable development, based on innovative technologies and more sustainable production and consumption and lifestyles, while ensuring a just transition of the workforce that creates decent work and quality jobs;” (Cancun Agreement, I. A shared vision for long-term cooperative action, December 2010²).
 7. For the ETUC, there are 5 pillars of Just Transition to a low-carbon Europe:
 - Consultation between Government and key stakeholders, including representatives from business, trade unions, local government and regional bodies and voluntary organisations.
 - Green and decent jobs through domestic investments in (new) low-carbon technologies, in R&D and innovation, and technology transfer. For the ETUC, all jobs that contribute to environmentally sustainable development are green. This spans all sectors and industries covering all workers; not only jobs in new

² <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf#page=2>

emerging sectors, such as renewable energy, waste management and environmental protection services, but also the transformation and creation of jobs in existing sectors as they become “greener”. For the ETUC, it is the quality as well as the quantity of jobs that is crucial – jobs must be at least in line with ILO standards on decent work.

- Green skills: Government-led, active education/training and skills strategies for a low-carbon, resource-efficient economy.
- Respect for labour rights and human rights: democratic decision-making and respect for human and labour rights are essential in order to ensure the fair representation of workers’ and communities’ interests at the national level.
- Strong and efficient social protection systems.

These principles should now be operationalised in the Durban COP17, notably in emerging international sectoral initiatives.

8. Worryingly, there is a clear absence of financial commitments for the period 2013-2020, in the framework of the Fast Start Finance package concluded in 2012, as well as the absence of procedure to reach \$100 billion annually as from 2020. In Durban, Europe should commit funds for this period, a third of the total amount needed. This should be additional to EU member states responsibilities to provide 0.7% GDP in overseas development aid, and not substitute this earlier commitment.
9. In terms of REDD+ and other innovative ways to tackle deforestation in the third world, the loss of employment for forestry and forest industry workers needs to be taken into account. For example, REDD+ finance should be channelled into easing the labour market transitions from unsustainable (illegal) forestry into something more sustainable. To tackle deforestation what is most of all needed is the promotion of sustainable forest management, which ensures that forestry and forest industry will continue to employ workers, and forest-based communities’ rights are taken into account, while the environment is also looked after.

Within Europe: Moving beyond business as usual and creating a Sustainable New Deal

10. Increasing concern about the economic future of Europe is currently dominating national and European political decision-making. The ETUC is deeply concerned that austerity measures will lead Europe into a double-dip recession, resulting in even more unemployment, deeper cuts in salaries and pensions, increasingly insecure working conditions for young people and other workers, poverty, social exclusion and social inequalities, coupled with a reduction in measures to combat climate change.

11. It is likewise worrying that recorded reductions in greenhouse gas emissions in Europe are the result largely of the current prolonged economic crisis and the collapse of central and eastern European industry in the 1990s, rather than climate policies. Currently, the EU is set to achieve its current -20% target by 2020 as a result of these factors, despite disappointingly low achievements in energy efficiency and savings in the absence of binding targets.
12. Together with the impact of austerity measures, the low price for CO₂ (currently 14€/CO₂T) will delay and complicate the investment needed to support the transformation of industries, promote infrastructure modernisation, and, consequently, bring about the transition to a low-carbon economy. As other regions globally invest heavily in active industrial policies and technological innovation, the risk of carbon leakage from Europe will increase if Europe stagnates further, which is one of the reasons why the ETUC believes it is essential to proceed without delay to reform the ETS³. It is essential in this context to ensure the global competitiveness of Europe's energy intensive industries by adequate measures, if necessary. Jobs and production processes in Europe must be made more sustainable in these industries. In this way, jobs losses to countries with considerably lower environmental standards and legislation must be avoided.
13. In the face of the current assault on welfare provisions, social rights and collective bargaining systems, through aggressive austerity and reform programmes, worker attention is largely focused on promoting an alternative agenda to rapid spending cuts and increasing unemployment. Central to this agenda is the ETUC call for a Sustainable New Deal for Europe, at the same time encouraging active, strong public policies and promoting investments in energy and resource efficiency, and creating and maintaining good quality jobs in Europe, through:
 - the reform of existing funds to better integrate social and environmental conditions in project/loan criteria (EU budget, European Investment Bank, European Bank for Reconstruction and Development) and the creation of Eurobonds and a Financial Transaction Tax to stimulate sustainable investment and lever private capital towards sustainable economic development policies.
 - a levy on maritime and aviation transport should contribute in financing the climate change policies through the Green Climate Fund. These measures should be implemented on a universal basis to avoid unfair competition and include a compensation mechanism to address equity concerns, especially in developing countries.
 - urgently addressing the price of CO₂ in the carbon market. As stated in the ETUC Athens Strategy and Action Plan, “the European Union must give the right price signals to promote this transition, which could take the form of a

³ See the ETUC resolution in October 2009 (<http://www.etuc.org/a/6594>) and the ETUC position in June 2010 (<http://www.etuc.org/a/7395>)

CO₂ tax, subject to a series of conditions”⁴. This is crucial to address investment flows, supporting R&D and innovation in low-carbon technologies and processes.

- the creation of a European carbon market agency, modelled on ECHA and tasked with setting greenhouse gas emission reduction levels to be achieved through standards and benchmarks based on best available technologies, the full involvement of social partners, and market regulation to set standards for the European internal market (recognising WTO rulings on environmental protection standards), while contributing to sustainable development.
- the adoption of EU and national binding targets on energy efficiency and energy savings of at least -20% by 2020, plus the creation of large-scale energy efficiency programmes targeting energy production and manufacturing industries, the renovation of buildings (public and private sector), transport systems and workplaces (including through worker participation in programmes). This is one of the most cost-efficient ways to tackle climate change. Sources of funding need to be earmarked specifically to this end.
- the development of renewable energies and other low CO₂ alternatives, such as combined heat and power.
- in the context of a second credit crunch, the EU should ensure legal certainty for investors and be developing a strategy to guarantee the needed investments (in R&D) associated with transition technologies, such as clean coal technologies and carbon capture and storage. EU regional policies must better address the implications for coal-dependent areas.
- the strengthening of resource efficiency and closed-loop manufacturing policies, to promote a viable, bio-based economy. The calculation method of LULUCF emissions should promote the use of wood products from sustainable sources; moreover, wood should be seen first as a material, then compost and last as fuel. Products should be assessed on their environmental life-cycle contribution to reduced energy and resource use. This should be seen in light of the EU Roadmap on Resource Efficiency (September 2011).

14. The ETUC and its member organisations have demonstrated the importance of addressing the social dimension in recent years, through a wide range of tripartite initiatives involving government, business and trade unions at EU and national levels, as well as through numerous studies and resolutions. In 2011, together with the interprofessional employers’ organisations, the ETUC highlighted the substantial gains in economic terms, energy efficiency, employment security and job creation possible through social dialogue on climate change mitigation and adaptation. This experience at European, national, regional, sectoral and company levels should be better integrated into the EU’s climate and energy strategies. The ETUC has also shown that there are problems in terms of precarious work in some

⁴ See 5.23 XIIth ETUC Congress 2011

companies linked to the green economy and that it is thus all the more important to ensure that dignified, stable jobs are guaranteed.

15. Despite the publication of a general Roadmap on emissions reductions to 2050 in March 2011, and sectoral initiatives on transport emissions (April 2011) and energy production (due in autumn 2011), the social dimension of EU climate and energy policies remains largely ignored by the Commission and policy-makers.
16. The ETUC reiterates its position that these elements cannot be left to the market or chance. A poorly managed social transition to a low-carbon economy will result in higher social and economic costs and promote a backlash against climate policy.
17. The ETUC calls for a European Just Transition Roadmap to implement this European commitment. The Roadmap should be drawn up in collaboration with the trade unions and should include: the active promotion of social dialogue at all levels, sectoral roadmaps including employment, education and training strategies, instruments on the anticipation of change and restructuring, the promotion of strong and effective social protection systems, and the respect for fundamental trade union rights and human rights.
18. Ensuring a fair regional impact, these policies are the necessary foundations for an increase in the EU's ambitions on the overall domestic target for greenhouse gas emissions reductions by 2020. The ETUC believes that without ambitious climate targets and decisive leadership on climate and energy policies, the economic, environmental and social situation will continue to deteriorate. Therefore the ETUC is convinced that to stimulate sustainable growth in Europe, increased ambition beyond business as usual scenarios will be necessary.
19. Through increased binding energy efficiency standards and investment in renewables, the EU should ensure its domestic target reflects the IPCC's recommendation for developed countries: -25 to -40% domestic CO₂ emissions by 2020. This target should be seen in the context of a longer-term policy to achieve -80 to -95% by 2050 on 1990 levels, and might be pursued in Europe provided that the conditions for just transition are met.



ETUC Resolution

Comments on the proposal for a Directive on Energy Efficiency COM(2011) 370 final of 22 June 2011

Adopted at the Executive Committee on 19-20 October 2011

At the end of 2010, the ETUC adopted positions on the Energy Strategy for Europe 2011-2020, presented in a resolution that contains an analysis and detailed proposals. That resolution¹ also contains in its final chapter the ETUC's 20 priorities for the European Union's energy policy for 2020, priorities that are relevant and that deserve the closest attention in the framework of this draft Directive, particularly because they incorporate the objectives of improving energy efficiency and promoting combined heat and power.

On the proposal for a Directive:

1. **Integrate and recognize the importance of the workplace and social dialogue in the Directive:** Considering the importance of the workplace as a primary site for the development and implementation of the measures proposed, the ETUC regrets the absence of initiatives relating to the workplace and promoting social dialogue in the European level energy efficiency policy and projects and wrote to Commissioners Hedegaard, Oettinger and Andor with these messages in July 2011 letter², requesting a meeting with them to address how the workplace and social dialogue could be better reflected in European Energy efficiency policy.

Worker engagement and participation in energy efficiency programmes is crucial for their success. To ensure implementation, full engagement worker involvement through social dialogue in the formulation of policy and the development of skills and education programmes is of paramount importance, as well as measures ensuring good working conditions and health and security at work.

Therefore, the Directive should integrate the promotion of social dialogue as a necessary tool to achieve the objectives.

The possibility of adopting an annex on training leading to certification or qualification of the service providers covered by this Directive should also be

¹ <http://www.etuc.org/a/7952>

² <http://www.etuc.org/r/1757>

examined. This could be modeled on the annex to Directive 2009/28/EC on the promotion of the use of energy from renewable sources.

2. **Set binding targets:** According to article 3, paragraph 1, “Member States shall set a national energy efficiency target expressed as an absolute level of primary energy consumption in 2020”. The commission does not, however, propose the setting of binding targets. This is problematic. Only with binding targets will progress be made. This has been shown to be the case with the 20 % renewables target. As the target is binding, member states have made a lot of progress and the EU is on course to achieve it. The energy efficiency target of 20 % needs to be made binding as soon as possible.
3. **Set a binding renovation rate for private buildings:** According to article 4, paragraph 1, “Member States shall ensure that as from 1 January 2014, 3% of the total floor area owned by their public bodies is renovated each year” Setting such a binding target is more than welcome. The problem is that public buildings constitute only 12 % of the building stock in the EU (according to Energy Efficiency Plan 2011). Any measure targeting such a small proportion of buildings is going to have a limited impact. As it states in preamble 15 of the draft directive, “the rate of building renovation needs to be increased, as the existing building stock represents the single biggest potential sector for energy savings”. In fact over 40 % of all energy is used in the building sector and reducing this energy use is very cost-efficient. Reaching the 20 % target will only be possible if a binding renovation rate for private buildings too is imposed in the directive. Member states could then decide how best to achieve this.

For determining the level of ambition to be adopted in this Directive for private housing, reference should be made to the best practices that exist in several Member States, particularly in Germany, where the Alliance for Employment and the Environment has contributed to positive results.
4. **Foster Combined Heat and Power (CHP):** according to article 10 of the directive, every new power plant must be planned on the basis of CHP in order to improve efficiency. Utilities as well as industry are obliged to ensure that heat consumption is used effectively. ETUC welcomes this proposal, as highly efficient CHP plants are able to reduce the CO₂ emissions of total energy production by up to 30%. ETUC regrets that the Commission has chosen not to set EU binding targets for improving the rate of CHP production in the electricity sector nationally, as exist already in some Member States.
5. **Limit the cost repercussions on final customers:** The obligations and measures provided for or foreseeable under the Directive will inevitably result in costs. Measures should be included in the Directive to help guarantee that the cost repercussions on final customers will be moderate and excluding low-income households from such costs.
6. **Provide financing sources to meet the objectives:** According to preamble 33, “Member States and regions should be encouraged to make full use of the Structural Funds and the Cohesion Fund to trigger investments in energy

efficiency improvement measures.” It is of great importance to use the existing financial instruments to the full, but these are not adequate. Large scale energy efficiency improvements, such as extensive building renovation programs, will require lots of funds, which indebted national governments currently do not possess.

To bridge the gap, the commission has proposed the establishment of EU project bonds to finance infrastructure projects. The scope of these bonds should be extended to energy efficiency projects such as building renovation works. Funding should be provided in this way to both public authorities and energy service companies, which also suffer from lack of funding sources. The energy performance contracting performed by these companies, which the commission seeks to promote via this directive, is not adequately financed by the private sector due to the inherent risks involved. Therefore the use of EU project bonds would be of benefit.

The Commission should also:

- examine as a matter of urgency the reasons for the low take-up of available resources (Structural Funds and EIB, in particular) and review financing rules as need be;
 - explore how to increase the role of the Energy Efficiency Fund, in terms of both sources of financing and criteria for the grant of funds, which must ensure the achievement of both environmental and social objectives;
 - review other potential financing mechanisms, among which third-party financing systems.
7. **Make earlier assessments:** According to article 3, paragraph 2, “By 30 June 2014, the Commission shall assess whether the Union is likely to achieve its target of 20 % primary energy savings by 2020”. The assessment needs to take place earlier. Otherwise there will not be enough time to reach the target.
8. **Involve industry more closely: the cut-off date of 2014** for the first energy audits should be brought forward and all undertakings, large or small, should be obliged to have energy audits performed.

As suggested by the EESC in its draft opinion, there is a need "to examine to what extent and under what conditions the benchmarking instruments for emissions of CO₂ and other polluting gases [BREF documents drawn up by the Seville-based IPTS (Institute For Prospective Technological Studies) as background material for the former IPPC Directive and the 2010 Industrial Emissions Directive (IED), also used for the ETS system, and which include energy efficiency references] could become binding and be drawn up in the framework of a system of governance involving all players concerned, among which employers, trade unions and NGOs (such as the ECHA Agency in Helsinki for the European REACH Regulation). In this way, it would be possible to take into account in the analyses and proposals to be drawn up in the framework of this governance system: the costs and benefits of conceivable energy efficiency measures and, among others, the social-employment dimension, the impact on working conditions, social analyses and standards, tools for evaluating estimated

employment, qualifications and vocational training needs, and arrangements to be implemented as a result."

9. **Set strict conditions for the use of smart meters:** the conditions to be respected in the event of the installation of smart meters, as proposed in article 8, paragraph 1, are insufficient for the ETUC. The introduction of such meters should not lead to higher costs for consumers and must be made conditional on compliance with the principles of universality and accessibility of energy, as well as respect for personal data, as also stated by the EESC in its draft opinion.
10. **Public services:** the Directive should focus special attention on and highlight the fundamental role that regional and national public services can play in achieving the objectives of the Directive, whether on energy audits, energy performance contracts, aid and incentives for improving the energy efficiency of housing, industry and services, or aid for the installation of combined heat and power facilities.
11. **Include the transport sector:** the Directive should contain the obligation for Member States to report energy efficiency results obtained sector by sector, including the transport sector, despite the fact that another Directive on transport is being drafted.

In connection with this Directive, the ETUC also asks the Commission and European Parliament:

- To contribute to the European coordination required to improve school and university curricula, training programmes and R&D programmes, so as to adapt them to the objectives sought by this Directive and to favour partnerships to this effect.
- To contribute to expanding the remits of works councils and European works councils to include energy efficiency, in order to promote achievement of the objectives of this Directive.



ETUC Resolution

Rio+20: Strengthening the social dimension of sustainable development

Adopted at the Executive Committee on 19-20 October 2011

1. Twenty years on from the first Earth Summit in 1992, poverty has increased in absolute terms, half of the world's workers work in insecure conditions, unemployment is at record levels, and harmful greenhouse gas (GHG) emissions are continuing to rise together with our unsustainable use of energy and resources, threatening biodiversity and global calamity if action is not taken urgently. This reality makes success at the Rio+20 summit of key importance to revitalise the sustainable development agenda internationally, in the face of the current economic crisis.
2. The Rio+20 summit will be focused on reviewing progress since 1992 alongside 2 key themes: 1) A green economy in the context of sustainable development and poverty eradication, and 2) the institutional framework for sustainable development. Broad-based civil society involvement is needed to ensure all elements of sustainable development are pursued consistently and fairly. Social consensus is only possible with the full engagement of all civil society actors, including social partners, and the recognition of the specific role of trade unions and their members as both workers and citizens.
3. The ETUC fully endorses the position taken by the International Trade Union Confederation (ITUC) to focus attention on the strengthening of international institutions and 3 key international demands: the creation of a universal social protection floor, the financial transaction tax, and a global target of at least 50% increase in 'green and decent' jobs by 2015.
4. Meanwhile, Rio+20 must be grasped as an opportunity for the EU to revitalise its own sustainable development strategy through a strengthening of the European social and employment dimension, the promotion of economic and employment security, and recognising the essential importance for social cohesion played by social dialogue and collective bargaining.
5. This resolution sets out the ETUC's demands in this regard towards the EU and national representatives negotiating agreements in advance of the summit and the December publication of the report to prepare the summit from the High-Level Panel on Global Sustainability (HLPGS), chaired by Finnish President Tarja Halonen.

6. At Rio+20, the ETUC calls for:
 - The inclusion of 'Just Transition' and 'Decent Work' in any concluding text or agreement, linked to a mandate for the ILO on implementation, and the creation of a universal social protection floor to ensure this Just Transition;
 - The adoption of a global target of at least 50% increase in 'green and decent' jobs by 2015. One means of achieving this goal could be a Global Energy Efficiency and Renovation Programme.
 - The strengthening of UNEP through its transformation into a new UN environmental organisation, based on multi-stakeholder involvement, and the creation of a high-level Sustainable Development Council reporting directly to the UN General Assembly, on the basis of an international system for measuring progress on sustainable development goals to be agreed at Rio+20, including the adoption of adequate indicators to measure sustainable development;
 - The creation of a global financial transactions tax (FTT), and the adoption of the European proposal for a European FTT, to provide a credible and stable financial framework to support sustainable development policies (notably, global poverty eradication, tackling climate change, and ensuring social justice);
7. At European level, the transformation of our economies and the promotion of the greening of all activities and jobs will demand a long-term policy and investment agenda. This policy agenda must go beyond the short-term constraints of stock-market reporting and political election cycles. European political decision-makers must:
 - Go beyond the Europe 2020 strategy and promote a stronger agenda for sustainable economic growth in Europe based on sustainable investment programmes and job maintenance and creation, reinforcing the social, environmental and economic dimensions equally;
 - Adopt a European Just Transition Roadmap, including the promotion of social dialogue and worker rights and participation on sustainable development, EU targets on quality job creation and transformation, and initiatives on the anticipation of change (e.g. through substantial training initiatives and information and consultation procedures);
 - Mainstream sustainable development inside the EU and its Members states by implementing the horizontal clauses foreseen in the Lisbon Treaty on gender equality, social protection and environment (articles 8, 9 and 11 from the Treaty on the Functioning of the European Union), involving Ministries responsible for Employment and Social Affairs and Industry, as well as the social partners through the promotion of social dialogue on sustainable development;
 - Recognise the importance of public authorities, regulations and public budgets for the delivery of sustainable development policies, particularly in guaranteeing universal access to water and universal services, as well as

- strengthening the role and use of social and environmental criteria in the revision of European public procurement rules;
- Press forward financial market re-regulation and supervision, abolish tax havens, tackle tax evasion and review investment treaties to ensure sustainable public finances; in order to change the allocation of investment risk internalising the external environmental and social costs and promote sustainable investments in energy and transport infrastructure modernisation and decarbonisation. This implies a calculation of the value of CO₂ to ensure the reduction of GHG emissions by a factor of 4 by 2050 (on 1990 levels);
 - Press for increased EU ambition on energy and resource use, through binding energy efficiency and energy saving targets of at least -20% by 2020, the promotion of greater resource efficiency and responsible waste management;
 - Reorientate the EU general budget, as well as reinforcement of the Structural and Regional Funds, while ensuring ex-ante and ex-post evaluations of loans from the EIB and EBRD, conducted in line with social and environmental criteria;
 - Create European and national Ombudsmen for future generations, tripartite Sustainable Development Councils, and/or parliamentary or independent Commissions for Future Generations.

The UN's decision to adopt the major theme of 'A green economy in the context of sustainable development and poverty eradication', should not be seen as a "business opportunity" for the richest countries and companies. Rather, the theme should be tackled to address the challenges of ensuring public and private investment flows to the South, as well as ensuring the investment and policy needed to achieve sustainable development in the North.

In the poorest countries, there is a massive challenge of capacity building across civil society, requiring investments in the public realms of health, education and welfare, at the same time as low carbon "green economic growth" programmes are being developed. In this sense, the "green economy" is only part of the wider challenge that Rio has to address. A "Just Transition" to the green economy is about recognising and planning fairly and sustainably for the significant challenges that sustainable development, climate change and fairer resource management policies pose for the whole of society.

Annex 1: Background and explanatory notes

In 1992, the Rio Earth Summit brought the concept of ‘sustainable development’ formally into the United Nations (UN) remit: bringing environmental and social concerns into mainstream debates on economic and human development within the Commission on Sustainable Development (CSD). In Johannesburg, ten years later, negotiating parties focused on promoting rules on social and environmental sustainability, to “strengthen and better integrate the three dimensions of sustainable development policies...In particular, the social dimension of sustainable development should be strengthened” (article 140c). Rio+20 in 2012 will focus on reviewing progress and defining the way forward on Green Economy and Poverty Eradication, and the institutional framework on sustainable development.

The ETUC believes that Rio+20 must be grasped as an opportunity for the EU to revitalise its own sustainable development strategy through a strengthening of the European social and employment dimension, the promotion of economic and employment security, and recognising the essential importance for social cohesion played by social dialogue and collective bargaining. The European Union and European countries should have a key role in pursuing these demands. A single-minded focus on competitiveness and deregulation threatens to undermine sustainable development in Europe, contributing to a rise in precarious work and failing to address rising poverty levels, GHG emissions and resource depletion. A lack of political leadership in the current crisis has intensified the pressure on working, retired and unemployed men and women in Europe, threatening to further erode our societies.

1. Ensuring the social dimension becomes a strong pillar of ‘sustainability’

The ETUC believes that it is imperative that governments (and the European Union) take the opportunity of the Rio+20 Earth Summit (May 2012) to revitalise and strengthen the international framework on sustainable development. The race for a ‘Green Economy’ should not become a substitute to sustainable development and its social aspect must not be left behind nor neglected. The Millennium Development Goals should not be ignored in the process, and any Sustainable Development Goals should prioritise the fight to eradicate poverty globally, whilst ensuring environmental protection.

Sustainability must address all three broad areas or dimensions: environmental, social, and economic. These needs interrelate in complex ways. The interfaces (social-economic, social-environmental, and environmental-economic) are blurred and indistinct. By ignoring one element of the three, any policy approach is destined to fail to address the underlying challenges of our model of production and consumption. It is therefore essential that the inclusion of Just Transition and Decent Work in the Cancun agreement be reflected in the work and negotiating texts of Rio+20. It is only through including policies and action to tackle inequalities, and promote safe, decent and sustainable green jobs that trade unions will remain engaged in the process and sustainable development will be achieved.

A “Just Transition” to the green economy is about recognising and planning fairly and sustainably for the huge changes that climate change policies will have for the whole economy. The five Just Transition principles for managing process of change to a

sustainable future are based on the principles of fairness and equity:

Consultation	Consultation between representatives from trade unions, business, government, regional bodies and voluntary organisations, on the shift to a green, low carbon economy, from the workplace to national government
Green and Decent Jobs	Investing in the technologies and infrastructure to meet the sustainability challenges for a low carbon, resource- efficient future while creating quality jobs.
Green Skills	Government-led investments in education/training and skills programmes, from the workplace to national levels, to equip students and the workforce with the skills for a low carbon, resource-efficient economy. Promoting individual worker rights to training to ensure access for all workers.
Respect for labour & human rights	Democratic decision-making and respect for human and labour rights are essential in order to ensure the fair representation of workers' and communities' interests. Strengthening worker information, consultation and participation rights to matters concerning sustainable development.
Social protection	Strong and efficient social protection systems in the transition to a low carbon economy

Putting the Decent Work Agenda into practice is achieved through the implementation of the ILO's four strategic objectives, with gender equality as a crosscutting objective:

- Creating Jobs – an economy that generates opportunities for investment, entrepreneurship, skills development,
- Guaranteeing rights at work – to obtain recognition and respect for the rights of workers.
- Extending social protection – to promote both inclusion and productivity by ensuring that women and men enjoy safe, secure employment, with unemployment protection and adequate healthcare.
- Promoting social dialogue – Involving strong and independent workers' and employers' organisations

The ETUC takes up the ITUC's call for strong employment policies promoting the greening of all sectors and jobs, with ambitious targets on quality job creation and transformation.

Consequently, the policy dialogue in advance of, during and following, the Rio+20 summit cannot be left to Environmental Ministries alone, but should involve Ministries responsible for Employment and Social Affairs and Industry, as well as the social partners through the promotion of social dialogue on sustainable development. It is within their remit to define the 'strengthened social dimension' already demanded in Johannesburg in 2002.

With 23 million unemployed in Europe, austerity measures will not build a greener, fairer Europe. They will not deliver the jobs and skills, nor the fair and just transition to a sustainable economic future vital for us all. The concept of Just Transition is

fundamental to ensuring the policy framework for quality job creation, included already in the UNFCCC Cancun agreement, this concept and Decent Work must be integrated into the Rio+20 final agreements. However, the EU has already accepted this commitment in Cancun and therefore the ETUC joins the ITUC call for a specific mandate for the ILO to implement Just Transition at international level, and calls for a proposal on a European Just Transition Roadmap, accompanying the EU's Roadmap 2050 to set the social framework of climate change mitigation and adaptation.

Within the context of the Rio+20 dialogue, the promotion of a universal social protection floor is of paramount importance to ensure this Just Transition to a energy- and resource-efficient economy alleviates poverty and unemployment globally. At European level, attempts to dismantle social protection systems and rights, and welfare states in general, under the guise of the sovereign debt crisis, threaten to exacerbate socio-economic inequalities, increasing poverty and the number of working poor, undermining the fabric of European society and social cohesion. It is a strengthening not a weakening of social protection rights (e.g. unemployment, pension provisions, healthcare) which is needed.

2. Providing a transparent and accountable framework for action at all levels

The ETUC calls for the strengthening of UNEP through its transformation into a new UN environmental organisation, which should be supported through an independent scientific assessment panel on sustainable development (mirroring the IPCC). Moreover, in addition to increase the political engagement in sustainable development, a top-level Sustainable Development Council reporting directly to the UN General Assembly should be foreseen, strengthening the work of and formal interactions between the ILO, UNEP and UNDP on sustainable development and green, decent jobs. A future UN Charter on Human Responsibilities and Solidarity could provide a legal foundation for UN action on sustainable development.

To this end, the ETUC supports calls for the establishment of an international system for measuring progress on sustainable development goals at Rio+20, establishing machinery for monitoring and guiding investment flows around the world to support sustainable development objectives (and to discourage unsustainable investment), including in particular how richer countries can assist the less developed in the sustainable transition.

Specific sectoral roadmaps are necessary with specific sustainable development goals and targets, particularly to address: sustainable mobility and urbanisation; tackling deforestation, the promotion of closed-loop manufacturing and better resource efficiency; the substitution of harmful substances; and the problems of water, food, energy and resource security.

The ETUC is convinced that it is urgent to adopt adequate indicators capable to measure sustainable development, ecological footprint and social inequalities. Growth as a concept should be reviewed in line with the work of Sen-Stiglitz.

A key priority at Rio+20 must be engagement with social movements and citizens on sustainable development. The tripartite model of the ILO should be reflected in the changing institutional framework, allowing a more bottom-up approach with active stakeholder engagement and responsibilities.

Broad-based societal pacts will be needed to ensure all elements of sustainable development are pursued consistently and fairly. Such pacts are only possible with the full engagement of social partners and recognition of the specific role of trade unions and their members as both workers and consumers.

Engaging at the workplace is of central importance in changing production and consumption behaviour. This is best achieved, as demonstrated by recent interprofessional social partner initiatives, through bilateral or trilateral social dialogue¹. However, there is still a long way to go if the Agenda 21 objectives are to be achieved, as unions are often not consulted within businesses or at sectoral level. A global evaluation would thus need to be drawn up of the level of implementation of Agenda 21, at environmental level and equally in the world of labour, specifically in terms of gender equality, training and poverty eradication, in order to design the measures more effectively bring on board the stakeholders who can help to achieve the objectives.

Furthermore, democratic structures should be strengthened to mainstream sustainable development in national and European policy-making. The EU and its Member States should start to mainstream sustainable development by implementing the horizontal clauses foreseen in the Lisbon Treaty on gender equality, social protection and environment (articles 8, 9 and 11 from the Treaty on the Functioning of the European Union). Other examples of how this could be achieved include national and European parliamentary committees 'for future generations' which consider the economic, environmental and social consequences of policies pursued. Alternatively, a European and national Ombudsman for future generations should be considered, or national Sustainable Development Councils. Finland already has a Parliamentary 'Committee for the Future'. Hungary has had an Ombudsman for future generations until recently. A number of EU countries have active multi-stakeholder Sustainable Development Councils. Such action is not just the prerogative of the developed world, but should become a model for all.

3. Investment in people and planet: Developing the European sustainable development strategy

Transformation of our economies and the promotion of the greening of all activities and jobs will demand a long-term policy and investment agenda. This policy agenda must go beyond the short-term constraints of stock-market reporting and political election cycles.

In the context of the current macroeconomic situation and spirally public bond-market crisis, this agenda is currently totally elusive and undermined continuously by national austerity programmes and market speculation.

The ETUC has made its position on European economic governance and macroeconomic policy clear in other positions promoting an alternative agenda for sustainable growth in Europe and job maintenance and creation². The ETUC is convinced that EU must go beyond the Europe 2020 strategy to give Europe a real sustainable development policy based on equal social, environmental and economic pillars.

¹ <http://www.etuc.org/a/8865>

² ETUC Strategy and Action Plan 2011-2015: <http://www.etuc.org/a/8928>

To spur sustainable growth, more ambition is needed from Europe in terms of climate and energy goals. The ETUC calls for increased ambition on greenhouse gas emission reductions of -25 to -40% by 2020 in-line with the IPCC recommendations, together with binding energy efficiency and energy saving targets of at least 20% by 2020. While ensuring that increased targets are accompanied by measures to promote social progress, to tackle energy poverty and carbon leakage and promote continual improvement in environmental performance and greater resource efficiency. It is essential in this context to ensure the global competitiveness of Europe's energy intensive industries by adequate measures, if necessary. Jobs and production processes in Europe must be made more sustainable in these industries. However, it should be avoided that jobs are lost to countries with considerably lower environmental standards and legislation.

Government intervention is needed to achieve these goals as well as a portfolio of more efficient public and private instruments. Public authorities, regulations and public budgets are crucial for the delivery of sustainable industrial policies aimed at addressing value-chains for strategic industries, support for R&D, support for the demonstration and deployment of technologies, standard setting, regulation, public investment in infrastructure modernisation, the diffusion of technologies to the South, and strong employment policies and education, training and life-long learning frameworks promoting green, decent jobs. The EU should build European policy agendas based on joint technology platforms and cooperative R&D initiatives, to press for a level playing field at international level and further the transition towards greater energy- and resource-efficiency ensuring social cohesion and economic and environmental justice.

To ensure sustainable public finances, the promotion of development and a fairer distribution of wealth, tax evasion must be addressed through the abolition of tax havens, financial market regulation and reform, and a review of business and investment agreements. Moreover, the better use of energy taxation should allow an increased taxation shift from labour taxes to environmental taxation, respecting and ensuring the financing of social protection systems.

Public services play an important role both in mitigation and in adaptation policies for climate change. Austerity policies put this under pressure having long term consequences for example when budgets and staff for environmental protection agencies are cut, investments in water management are not made and health care and emergency services are not equipped to deal with disasters. ETUC urges the EU to underline the importance of public services and investment therein to ensure societies move on a path to sustainable development.

While existing European financial instruments can be used to better lever private capital to finance sustainable development policies and projects, they are currently insufficient.

A reorientation of the EU general budget is needed. Existing financial instruments must be reinforced and further mobilised to the benefit of a European Union sustainable development strategy. The ETUC has taken a clear position on how this should be achieved in its Resolution on the EU's Multi-Annual Financial Framework post-2013³.

³ Resolution March 2011 : <http://www.etuc.org/a/8503>

The European Investment Bank is an important budget instrument not tied to the EU general budget, and adopted in 2009 a “Statement of Environmental and Social Principles and Standards”, including the ILO core labour standards, now included in its strategy for project selection and implementation. This bank should be used more to finance European climate policies, to support R&D efforts not only in large firms but also in small enterprises, and should develop further the implementation of its sustainable development strategy through dialogue with the trade unions and civil society, and through a representation of social partners on the board of this bank. The European Bank for Reconstruction and Development also offers interesting prospects. Ex-ante and ex-post evaluations of loans from the EIB and EBRD should be conducted in line with social and environmental criteria.

Fundamentally, new innovative financing measures are needed. In particular, a financial transactions tax at European and ideally global level is needed, especially to provide a credible and stabilizing financial framework as such but it should also have effects on sustainable development policies (notably, global poverty eradication, tackling climate change, and ensuring social justice).

Financial market rules should change the allocation of risk to internalise the external environmental and social costs, promoting investments tailored to support sustainability through sustainable investment in infrastructure and strong industrial policies and job-rich strategies. It is only in this way that the social dimension will be strengthened and disproportionate costs will not fall on the most vulnerable in society (in Europe and globally).

Annex 2: Policy Options and Practical Actions on chemicals, transport, mining, waste management and the 10-year framework on Sustainable Consumption and Production (SCP/10YFP)

In its preparation, during and following the Rio+20 summit, the ETUC calls for strong EU endorsement and implementation of the following specific sectoral principles/commitments:

1. Chemicals

The ETUC reiterates the central principles of the REACH regulations to ensure a high level of protection of human health and of the environment, to shift the burden of proof for identifying and controlling risks from authorities to companies and to speed up the placing of safe and innovative chemicals on the market. ETUC therefore considers that the replacement of substances of very high concern and worker health and safety are priorities. The structures of the European Chemicals Agency (ECHA) is seen as a best practice model, in which trade unions and other stakeholders are able to engage with the regulatory authorities to further workers' health and safety, and push for improved innovation towards the substitution of hazardous chemicals.

- Ensure all workers are protected from chemical-related fatalities, injuries and diseases. Ensure decent working conditions in the chemicals' sector as well as in those where chemicals are used. Improve workers' training and awareness on chemical risks.
- Ensure the prevention of chemical risks in workplaces and the environment.
- Ratify and implement ILO Conventions 155 on Occupational Safety and Health and 170 on Chemicals and work towards the application of the UN Global Harmonised System.
- Develop and implement a strong international regulatory framework regarding chemical hazards and national regulatory policies based on the precautionary principle and robust safety evidence. Work towards a binding agreement based on an integrated approach to chemicals, including through the strengthening of UN SAICM. Ensure no exposure of substances of very high concern to humans and the environment, including CMR, synthetic endocrine disrupters, PBT/vPvB, and other highly toxic substances; and to reach a substitution of these substances in one generation.
- Intensify work to ensure compliance with EU and international rules (e.g. Basel Convention) on chemical products and their treatment as waste through safe and effective recycling, combating irresponsible and illegal shipments of waste to other regions of the world.
- Recognise the need for 'Just Transition' strategies to address economic change in the chemicals industry, resulting from environmental standards.
- Increase research and disseminate information on chemical hazards and on the impacts of unsustainable waste management on public health, occupational health and the environment.
- Encourage substitution of toxic substances through regulatory actions.

- Prevent social and environmental dumping and illegal trafficking and implement the Extended Producer Responsibility and Accountability principles.
- Develop global guidelines on the use of nanomaterials including the protection of workers, consumers, and the environment at all stages of the life cycle, based on the 'no data, no market' principle.
- Increase availability of financial and technical resources for developing and transition countries to enable full implementation of multilateral chemicals agreements.

2. Transport

Mobility and transport need to be considered as a coherent system, organized to meet specific needs. Urban and rural areas have different mobility requirements. This implies that costs for mobility must not become prohibitive due to energy prices. Both individual and collective transportation systems need to be reconsidered taking into account this aspect. Ambitious measures in the transport sector must be included in EU legislation through a directive on sustainable mobility.

- Ensure public transport systems are adequate, efficient and affordable, and help workers reaching their jobs, education and markets.
- Focus on infrastructure development in rural areas as it is vital for lifting poor people out of poverty. The lack of transport services is deeply related to exclusion, inequality and poverty.
- Implement policies which promote Decent Work in the transport sector.
- Promote ambitious public investments in sustainable infrastructure. Public transportation systems are a centrepiece of sustainable mobility strategies, which need to be promoted.
- Implement policies which enhance modal shift.
- Create fiscal frameworks that allow the internalization of transport social and environmental costs.
- Promote and improve urban and peri-urban planning.
- Reinforce institutional and high-level participation of trade unions and other stakeholders in transport policies.
- A new levy on heavy tonnage maritime shipments and kerosene used in civil aviation provide an opportunity for funding the aforementioned projects.

3. Mining

- Ensure the ratification and implementation of norms on Occupational Health and Safety in mining, including ILO Convention 176 on Safety in Mining.
- Reduce the negative social and environmental impacts of mining operations and compensate workers and communities for unsustainable mining practices.
- Recognise the role of trade unions in the mining sector for achieving decent working conditions in this sector.
- Recognize the need for 'Just transition' strategies to address economic change in the mining industry, resulting from environmental standards.

- Develop upstream and downstream mining activities as a means for diversifying local economies, through a mix of regulatory and voluntary instruments.
- Ensure that the revenue from mining activities is fairly distributed in communities and benefits local and national sustainable development.
- Establish an international regulatory framework for extractive companies.
- Improve the precarious situation of all mineworkers, including small scale mining workers.
- Impose appropriate terms and conditions on mining, including environmental, health & safety, and social protection criteria, and prevent the development of projects that would adversely affect areas of ecological, economic and cultural significance and other land uses.

4. Waste Management

- Ensure reliable and accessible information on the generation and management of hazardous and non-hazardous waste.
- The creation of an “organism, committee or agency” at the European level with union, social and environmental participation, responsible for monitoring the objectives of the Directive 2008/98/EC on waste (Waste Framework Directive) to ensure its implementation.
- Prevent the generation of waste at the beginning in product design and manufacturing in order to reduce the quantity and toxicity of waste, making products easily recyclable through ‘cradle-to-cradle’ approaches (Ecodesign).
- Promote a green tax reform to change the economic framework to promote waste management options of reducing, reusing and recycling instead the end of pipe options (landfill, incineration). For instance, putting levies on incineration or eliminating the subsidies received.
- Increase research and disseminate information on the impacts of unsustainable waste management on public health and the environment.
- Improve job quality and ensure decent working conditions in this sector. Recognise that workers carry out dangerous, unskilled and low paid work.
- Fight corruption and illegal transportation in the waste sector.
- Enforce a 3 Rs strategy: reduce, reuse, recycle and set binding targets.
- Recognize that dealing with waste is a public responsibility and strengthen the capacity of public authorities and public services to enforce the 3Rs strategy.
- Treat waste as close to the source as possible.
- Implement tracking, monitoring, sanction and compensation systems to better address illegal trafficking of hazardous waste.
- Introduce extended producer responsibility and accountability.
- Prevent social and environmental dumping and illegal trafficking and implement the Extended Producer Responsibility and Accountability principles.
- Focus on political commitment and institutional coherence, indispensable aspects, completing technology development.

- Build capacities for consultation, listening, information exchange and workers participation in decision making processes.
- Acknowledge the potential of the sector to achieve a resource efficient society for sustainable development.

5. 10-year framework on Sustainable Consumption and Production (SCP/10YFP)

- Ensure changes in SCP patterns reduce the damaging effects of unsustainable production on workers, the environment and communities and include the Just transition strategy to deal with potential challenges in the process of transforming our societies.
- Ensure governments rely more on public regulation and less on voluntary initiatives.
- Reform the shareholder value model of corporate governance and promote a stakeholder's value model.
- Reform investment policies. Currently, they are driven by a search for lower social and environmental standards.
- Address the entire production cycle and sustainability along the whole supply chain.
- Create a level playing field for consumers for them to make their choices only between sustainable products.
- Integrate the needs of small and medium enterprises and their workers when implementing SCP policies.
- Enhance the potential of SCP for the creation of green and decent jobs in sustainable sectors.
- Promote a different organization of global production, based on a fair share of the supply of natural resources, not on the demand of the affluent consumers.
- Adopt an integrated approach to advancing SCP across government departments, avoiding fragmented actions resulting from a lack of coherence in policy instruments.
- Promote sustainable public procurement practices.
- Implement meaningful participation of trade unions and civil society on government committees and projects concerning health and safety.

6. Protect biodiversity

- Alongside the threat of climate change, the loss of biodiversity poses a significant threat to humanity. Therefore active policies are necessary, the first of which must be the progressive removal of harmful subsidies. The second step should be to give a clear value to biodiversity, to encourage research in the area, including in biodiversity basins. Democratic processes should be used through public debate on the importance of different biodiversity priorities, such as landscapes, or endangered fauna and flora. This should be seen in the context of the Nagoya Protocol (adopted in 2010).

7. Deforestation and the use of wood

- REDD+ and other innovative ways to tackle deforestation in the third world are needed. In these the loss of employment of forestry and forest industry workers needs to be taken into account. For example, REDD+ finance should be channelled into easing the labour market transitions from unsustainable (illegal) forestry into something more sustainable.
- To tackle deforestation what is most of all needed is the promotion of sustainable forest management, which ensures that forestry and forest industry will continue to employ workers, and forest-based communities' rights are taken into account, while the environment is also looked after.
- The calculation method of LULUCF emissions needs to be such that it promotes the use of wood products from sustainable sources, as this contributes to tackling climate change and to the creation of green jobs in forestry and forest industries. Using sustainably harvested wood products in long-term applications such as buildings has been proposed by the IPCC among others to be an effective way to tackle climate change, mainly due to carbon being stored in these products for the duration of their lifespan.