

Social Dialogue package - promising at national level, disappointing at EU level



(Brussels 26 January 2023)

See also [ETUC press release](#) here and the one by [8 ETUFs](#)

On 25 January, the Commission published a long-awaited package on “Strengthening social dialogue in the EU”, consisting of a Communication on EU level and a draft Council Recommendation on the national level of social dialogue (see [here](#)). It follows more than two years of informal discussions with social partners, including in the context of the so-called Nahles report (see [here](#)).

“We are disappointed the Commission does not propose a clear framework on how to bring forward social partner agreements to make them binding in the EU. It now depends on the whims of the day.” says Jan Willem Goudriaan, EPSU General Secretary.

The Communication fails to limit the Commission's unfettered power on whether or not to implement social partner agreements by EU law.

While the EPSU v EC court case confirmed the Commission's full discretion, judges did not prevent the Commission from establishing - in cooperation with social partners - criteria on how future decisions will be determined. However, the Commission may also carry out their own impact assessment of social partner agreements, even though the signatories already know perfectly well the potential impact. This adds further red tape and waste of public money to an obscure and lengthy process on the handling of social partner agreements.

The minor concession is a three month time limit for the Commission to provide preliminary considerations on social partner agreements. There is, however, no time limit on the final decision, as called for by EPSU and other European trade union federations.

This clearly undermines the Commission's call to social partners to strike more agreements. In the absence of legal certainty, it makes it more unlikely that social partners will want to reach more agreements. Yet, there is much evidence that shows the poor implementation of agreements with no direct legal effects (so-called 'autonomous' agreements).

Finally, the Commission does not say that it will reverse its plans to outsource the logistics of the sectoral social dialogue committees to social partners or that it will keep a decent level of funding. This makes the overall future of sectoral social dialogue committees rather uncertain.

As stated by the ETUC, it is hoped that those missing parts of the social dialogue's backbone - finance and outcomes - will be soon established with a possible review of the 1998 Decision on the Establishment of Sectoral Social Dialogue.

For EPSU, another source of disappointment is the delayed decision on its joint demand with the employers to set up a social dialogue committee for social services. This decision has been pending since June 2021, despite the Commission calling for more sectors to be covered by sectoral social dialogue and arguing how vital social services are for the whole of society. Further talks with the European Ombudsman will continue with EPSU to see if there are grounds for a case of maladministration.

Instead, the Commission wants to make the sectoral social dialogue more inclusive by reviewing the representativity of social partners and developing more synergies between the 43 sectoral social dialogue committees. Again, the Commission fails to provide clear, transparent criteria on how it will be achieved and for which purpose.

In contrast, the Council Recommendation, if agreed by all EU governments, can potentially strengthen national social dialogue including collective bargaining. The importance of collective bargaining in the public and private sectors is recognised including on pay, in line with ILO relevant conventions.

The Commission also indicates that social dialogue should deal with broader public policy and calls for more collective bargaining coverage of all workers including the most vulnerable ones on precarious contracts. The Recommendation also includes an international dimension and EPSU will seek references to the EU accession talks which should make respect of trade union rights compulsory and of sectoral social dialogue compulsory in the context of the EU accession talks. If agreed by unanimity in Council, it remains to be seen what the Commission will do in case of non-compliance with these positive recommendations to governments.

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