



Vrnjačka Banja Statement

TRADE UNION COMMENTS ON *MEMORANDUM of UNDERSTANDING for the DEVELOPMENT of a SOCIAL PILLAR of the ENERGY COMMUNITY*

The Electricity and Gas trade unions of the countries of the South East European Energy Committee and including trade unions from the Ukraine met 19-20 October 2006. The meeting was organised by EPSU, by the European Federation of Public Services Trade Unions and PSI, Public Services International, its global sister federation.

The **Memorandum of Understanding for the development of a social pillar of the Energy Community Treaty** was the main subject of discussion. The EPSU/PSI South East European Energy union group adopted the following statement:

We agreed a comprehensive position at our meeting in Skopje, 17 September 2005 (www.epsu.org/a/1460). This was confirmed again at our meeting in Velenje, Slovenia, November 2005. The statement remains our point of reference to judge recent developments.

The Energy Community Treaty was signed 25 October 2005 and approved by the European Parliament 18 April 2006.

We continue to regret that the Treaty to establish the South East European Energy Community does not have a social dimension. This is a serious omission.

We appreciate the work that has been done by the European Commission, our governments, the Stability Pact and others to correct this in reaction to our demands.

We welcome the **positive role of the European Parliament**, which adopted a resolution on the Treaty that includes amongst others the following points (11 May 2006):

[The European Parliament]

4. Points to the fact that whereas in the case of the EC internal market, additional measures conceived as instruments to support the internal market or considered necessary in order to mitigate any negative effects have been adopted, in the case of the ECT, the Council Decision foresees none and that this could lead to serious distortions of competition with EU players by undermining the standards applied in the EU internal market; notes that, therefore, matters relating to employment, social impact and restructuring, working conditions, equality, health and safety, information and consultation and social dialogue will be treated in a separate Memorandum of Understanding (MoU), whose legal status is not specified; demands that the MoU should be signed by the Commission, Council and governments concerned and should developed to become a legally binding instrument;
5. Supports the participation of representatives of the social partners from the ECT signatory countries in the European sectoral social dialogue committees where established, which the Commission is to enable;

7. Calls for caution to be exercised in the privatisation of utilities and replacing public monopolies with private ones when not all rules and regulations are in place to ensure public service obligations, reasonable prices and democratic control;
8. Calls upon the Commission, prior to their adoption by the Council or Commission, to submit to the EP for information all the complementary documents considered by the Commission or the Council to be integral to the internal market in connection with the ECT;
10. Demands that representatives of its ITRE Committee, together with parliamentary representatives of the countries concerned, be informed and consulted on decisions of the Commission and Ministerial Council and that this group should have the power to amend proposals; notes that a procedure to this end needs to be discussed between the EP, Commission and Council;
17. Calls upon the Commission to report in writing to Parliament at least once per year on the achievements of and problems faced by the contracting parties in the implementation of the ECT; considers that this report should include at least the following elements:
 - state of affairs with regard to implementing the relevant energy, **social (MoU)** and environmental *acquis*;
 - overview of the work of the regulatory authorities, their resources and procedures for **consulting relevant stakeholders**;
 - **level of market concentration, affordability and investment in new capacity and networks**;
 - overview of opinions of relevant stakeholders, **particularly social partners**, consumer and environmental organisations and municipalities;

I. GENERAL COMMENTS

We welcome the development of the **Memorandum of Understanding for the development of a social pillar of the Energy Community Treaty**. We understand that the Permanent High Level Group discussed the Memorandum at its meeting 17-18 October 2006. Originally the Memorandum was to be signed by the Ministerial Council 17 November 2006. We are disappointed that this timetable is not kept. We want **a very clear commitment and signal** that the European Commission and Member States are serious about signing the Memorandum.

The version of the Memorandum of Understanding of 22 September 2006 meets a number of our demands. These include:

- The recognition of the role of the trade unions and more general of the social partners in the implementation of the Energy Community;
- The reference to European standards as contained in the European Social Charter, the EU Charter of Fundamental Rights, the European Convention for the protection of Human Rights and Fundamental Liberties, as well as the global standards of the ILO;
- The role of the social dialogue at all levels;
- The recognition that the internal market for electricity and gas will have negative consequences for workers and for vulnerable users;
- The importance attached to Public Service Obligations including affordability of electricity and gas services, energy poverty, district heating reform and the societal impact from reforms;
- The development of national social action plans to address the negative consequences of the internal market for electricity and gas;
- The role of the Energy Secretariat to assist the countries in developing the national social action plans;
- The establishment of the Social Forum that includes representatives of trade unions of all countries in South East Europe;
- The reference to the main areas of the European social *acquis* that need to be developed in South east Europe:
 - European labour law
 - Health and Safety
 - Equal opportunities
 - Workers' fundamental rights
- The importance of high quality, accessible and affordable energy services that meet the need of citizens;
- The annex of the European social *acquis* that is considered relevant;
- The financial assistance the EU and donors are prepared to provide to assist the process of implementing the Memorandum, including the access to pre-accession and Structural Funds;
- The political objective to make the Memorandum a legally binding instrument.

II. SPECIFIC COMMENTS

II.1 On the process of consultation on the Memorandum

The unions exchanged information on the process of consultation on the Memorandum. It demonstrated flaws:

- In some countries (Bosnia-Herzegovina, Bulgaria, Croatia, Serbia) unions have been informed. Unions have commented on the Memorandum but no replies have been received and it is not clear how the governments have taken on board comments.
- In the other countries even information to the unions has been lacking;
- Yet in other countries government changes have stopped the dialogue with the unions (Albania, Macedonia);

We request the European Commission and the Energy Secretariat to prepare an overview of how the consultation process has taken place and how the governments foresee the consultation will be organized with the trade unions in the future. The results of the overview should be discussed by the Permanent High Level Group and with EPSU and a delegation of the trade unions.

The overview should also include an overview of how civil society organizations were consulted. This is in line with the demands of the European Parliament.

The Memorandum sets out that the social dialogue needs to be effective. We agree, but we are also skeptical as many trade unions can list a string of broken promises. The recent annulment of the collective agreement in the electricity sector in Serbia is an example. (Decision of the Serbian government 110-16052/2002-12 made on 12 October 2006).

- We point out that for the social dialogue to be effective it is not helpful if governments break up sectoral agreements, and if employers do not organize in sectoral organizations. We request the European Commission to assist the Member States of South East European Energy Community to develop effective social dialogue structures for the electricity and gas sector which can serve as an example for other sectors. These structures will also serve as a link with the European social dialogue.

We will follow the implementation vigilantly and have pledged support to each other to confront governments, which make a mockery out of the implementation of the Memorandum.

II.2 Status of the Memorandum

The Memorandum is a first step to plug the social gap in the Treaty. We have demanded that the Memorandum becomes legally binding. This is supported by the European Parliament and by European Energy Commissioner Andris Piebalgs in his response to the European Parliament (9 May 2006). The Memorandum underlines that it can become legally binding. We welcome this.

We demand a clear timetable for this process to be agreed by the Ministerial Council.

II.3 Consultation on policies of International Financial Institutions

We note that our governments have extensive discussions with the International Financial Institutions (IFIs). They issue policy prescriptions and attach conditions to the loans they provide. The IFIs such as the EBRD, EIB and World Bank also advise on reform of the energy sector.

Their proposals have social consequences. The Memorandum of Understanding is silent on their role.

We understand effective consultation on the implementation of energy reform to include consultation and dialogue on the proposals of the IFIs and with the IFIs, and on the conditions which are attached to loans. Our governments should not hide behind the IFIs and use them as a veil of secrecy.

We demand that the Memorandum makes reference to the importance of consultation with the IFIs. The social action plans will need to include this as well.

II.4 Social Forum

The Social Forum is a positive idea and we welcome it. ***It should meet for the first time shortly after the signing of the Memorandum foreseen for 17 November 2006, and before the summer of 2007***

The Memorandum does not indicate who is responsible for the Secretariat of the Forum. This needs further consideration as the European Commission (DG Energy and DG Employment) have both specific expertise, the Energy Secretariat will be involved in the implementation of the Memorandum and social action plans and our experience with the Stability Pact has been positive.

However this is organized, ***we demand that this includes a role for the social partners, possibly through a Steering Committee.***

II.5 Social Action Plans

The keys to implementing the Memorandum are consultation on energy reforms, the social dialogue and the national social action plans. ***We demand that governments start discussing with the social partners the contents of the social action plans. Social action plans should be established before summer 2007.***

The Energy Secretariat can assist in drawing up these plans according to the Memorandum. This is positive. The Energy Secretariat staff will hence need to be strengthened to be able to cope and to have the relevant experience to assist. A first step is to develop a checklist of the issues to be covered in the social action plans together with a delegation of the trade unions and employers.

We believe there is a role for the expertise of the European Social Dialogue Committees like for the Electricity sector here.

The results of the Employment Study currently being undertaken by the European Commission and with a Steering Committee of the European Electricity and Gas social partners should be taken into account. A first presentation of this study was made at a seminar 16 October 2006, Brussels

II.6 Investment

We recognize the urgent need for investment, including in infrastructure, quality services and a qualified workforce. This is essential to ensure that the energy systems in our region develop in a sustainable manner and contribute to overall security of supply in Europe.

However, we do not yet see the investment in-flows, which are required. And these investments have to materialize against a background of an estimated trillion Euros of investment required till 2030 as the European Commission has estimated in its Green Paper on the EU Energy Policy.

Based on the current situation in the European Union, the Internal market demonstrates that investment is less secure, not planned and is not timely. We are concerned that this will occur also in South East Europe and will thus have a negative impact on our societies.

We underline the need for prudence with introducing the internal market. We stress that it must remain possible for governments to opt for different solutions than competition if the population so wants. We draw attention to the EPSU tests against which steps for market opening need to be benchmarked. Market opening needs to bring more: Democracy, Employment, Reliability, Investment and Sustainable development. The comprehensive position is available at: http://www.epsu.org/IMG/pdf/EN_Adopted_Comments_on_future_of_EU_int_mkt_gas_electricity-2.pdf

We welcome the attention of the European Parliament to fight corruption. This also implies that tendering processes should be transparent. Part of the social action plans could be to consider providing assistance to the trade unions to understand public procurement and how technical quality, environmental standards and social conditions can play a role.

II.7 On Health and Safety

The Memorandum argues that health and safety is one of the areas to be implemented through social action plans. We agree. Addressing health and safety issues will improve Security of energy systems and will reduce accidents at the same time. The exchange of experience at our seminar indicated that accidents are many. ***This needs to be addressed urgently. Labour inspectorates should have adequate resources. European health and safety directives set out the main responsibilities of employers as well as the role of health and safety representatives.***

We point out the Joint statement on health and safety and training of the European Social Dialogue Committee on Electricity as a document that provides guidance in this area.

II.8 Privatization

We have called for a Moratorium on Privatization of Utilities in our Platform of September 2005. This is not respected as governments continued to privatize these essential services. This often happens without public debate.

We reiterate our demands for a Moratorium of privatization. The European Parliament supports a prudent approach.

Privatisation should be accompanied by a social package. For the measures that should be part of this, we refer to the annex.

II.9 Ukraine and Moldova. Other countries

The South East European Energy Community includes Moldova and Ukraine (since 20/21 October 2006) as observers to the Treaty. These countries will also implement the Treaty. ***We demand that the governments commit to implement the Memorandum as well.*** This should also apply to other countries that join the Energy Community in the future.

III. DEMOCRATIC CONTROL

We are concerned that the South East European Energy Community has democratic flaws. The European Parliament has underlined this in its May 2006 resolution mentioned earlier. There is an urgent need for procedures to remedy this. Transparency will be key to public acceptance. ***We can not accept that the Ministerial Council can take decisions without democratic control.***

We are concerned that once again the national parliaments appear not to be involved. While our parliaments need to be informed and consulted, they should also seek a more active interest in the South East European Energy Treaty. Governments should do more to involve the Parliaments.

We recall here the **Conclusions of the Skopje Parliamentarian Meeting (7 June 2005).**

Parliamentarians agreed amongst others:

- To the development of a checklist for implementation of the *acquis*.
- To cooperate with trade unions and civil society.
- Public hearing in the parliament.
- To ask for concrete support and EU funds for the implementation of the Treaty. Guarantees for long term investment by the EU
- Possibilities for the region to have access to the European social funds and their instruments to promote growth and employment; and to deal with the negative consequences of the internal market
- Resources for networks of parliamentarians, trade unions and other civil society groups to be in a position to monitor the implementation of the Treaty, raise problems and propose solutions. These networks should be in a position to draw on expertise.
- To organize a standing body of parliamentarians dealing with energy, water and infrastructure.

Our approach

Governments which do not seriously implement the Memorandum, which violate trade union rights and do not respect collective and other agreements can expect to be targeted for action,

We have considered European days of action during our meeting 19 and 20 October 2006. Further preparations will take place.

Annex on Privatization and Social Package

Privatization and developing services of general interest.

The gradual opening of the electricity and gas markets in South East Europe require the definition of new regulations for the development of public services also called services of general interest so that the profit motive does not become the determining factor to the detriment of employment, social guarantees, public health and economic growth, and of the interest of the consumers.

Equal access of citizens to energy, at affordable prices, must be guaranteed, and this independently of the legal status (public or private) of the companies. We repeat our call for a **Moratorium on Privatisation of the electricity and gas utilities**. The internal market for electricity and gas does not oblige our governments to privatise nor does the

European Commission obliges our governments to do so. There are many public enterprises (state and municipal) in the European Union for example. We note that what is regarded as the most functional electricity market (the Nordic market) is based largely on publicly owned companies. High quality services, security of supply and the public's interest are best secured through publicly owned utilities will resist ill-advised privatization. We recognize governments do sometimes disagree and privatize. It is widely recognized that privatization (or so-called public-private partnerships) has to be prepared well taking into account many different interests. This often does not happen.

The Memorandum should include a Moratorium on privatization. It should establish that:

- Before privatization takes place, a large and public debate in society should take place, and so citizens can form their opinion. This should include hearings in the national parliaments. Trade unions and other civil society groups should be able to draw on (counter-) expertise matching the expert advice governments seek from (mostly international) consultants. Sometimes a referendum might be a worthwhile instrument to ask citizens' opinion.
- Before privatization all institutions are to be in place to ensure democratic oversight, clear legal frameworks and to prevent exploitation of workers and citizens.
- Before privatization there should be impact assessments of its consequences for workers, the poor, citizens, public finance, environment, investment and prices.

If privatization takes place and is based on positive practices from old and new Member States, **a social package** should be in place to protect workers and citizens from the zealous pursuit of profit by companies. The social package should be part of the tenders and of the licenses granted to new owners to operate the services. These social packages should be discussed and negotiated with the trade unions. The social package should also ensure protection for vulnerable citizens so they are not cut out from essential services.

This social package should contain amongst others:

- Recognition of the trade unions concerned
- Guarantees to respect collective agreements and other social standards. New owners should become members of the national employers organization where relevant (in case of national sectoral collective agreements)
- The employment guarantees:
- Training and other measures to ensure a qualified workforce

- Training and re-employment measures for those workers that lose their jobs
- Limits to out-sourcing and the conditions under which it can take place including negotiations and respect for the collective agreement
- Social dialogue, Information and consultation rights
- Method for dialogue and negotiations (sectoral and local level)
- Guarantees for trade union mandates to prevent that new owners weaken the workers' voice by cutting workers' representatives
- Rules on Workers Ownership (shares) linked with rights on how to exert the voice of the workers' shareholders. Combining the shares of workers in workers' shareholder funds should be possible
- Participation in European Works Councils. Workers in SEE are not second class workers
- There is an important **role for the regulatory bodies** to oversee that companies respect these social packages. If they do not respect these social packages the licenses should be withdrawn.

Public companies are restructuring as well. Like with new owners, social packages should be in place to ensure restructuring is done in a socially acceptable manner. This is also part of the current European discussion on restructuring. This should be part of the Memorandum.