

EPSU Congress 2009

R.A.4. To give social Europe a future

Congress agreed to refer this resolution to the incoming Executive Committee for discussion.

The eighth EPSU Congress resolves: To give social Europe a future - Requirements for an alternative economic and social model for the EU

1. Priority for social justice in the European Union

1. EU citizens have been experiencing the longest period of peace in European history, which has lasted for nearly three generations. Taking this for granted fails to appreciate the function of the European integration process to bring about peace, which has existed since its first beginnings after the 2nd World War.
2. And yet the state of the European project currently gives cause for concern. Peace is more than the absence of war and military power. Peace also signifies inward social peace, epitomised by social justice. And here, the European Union displays significant shortcomings, with a tendency for these to increase. The development of the economic, social, wage and tax policy in the EU leads to social tensions in the Member States. A break with the present policy is necessary so as not to jeopardise the internal peace in the European Union. The EU is in urgent need of an alternative economic and social model.
3. Since the deepening of the integration process in connection with the single internal market and economic and monetary union and since the enlargement in the direction of Central and Eastern Europe, citizens in many States no longer consider the EU as a synonym for growing prosperity, higher incomes and more jobs. On the contrary, they see the EU as a vehicle for a bottom-up redistribution of income, breaches in the social security systems, job cuts and growing social inequality. EU citizens are experiencing the effects of far-reaching socio-economic processes:
 - ✓ a sharp decline in the proportion of wages and salaries in the gross national product of the EU-27, especially in the euro area;
 - ✓ ever more blatant inequality in the distribution of income between poor and rich throughout the EU;
 - ✓ the development of a low-wage sector with a growing proportion of employees in atypical and socially unprotected employment throughout the EU;
 - ✓ the reduction in benefits for the unemployed, especially for the long-term unemployed, in connection with the Liberal labour market reforms in almost all EU States;
 - ✓ the decline in the welfare state as regards old-age pensions and health care throughout the EU;
 - ✓ a redistribution of the tax burden in favour of businesses and high income-earners in all EU States;
 - ✓ the reduction of jobs in businesses whose return on equity has at the same time risen drastically.
4. These developments are primarily attributable to a radical change in the economic policy and social policy model, which started at EU level with the Single European Act of 1987 and the introduction of the single internal market. These projects heralded the change from Keynesian to neo-Liberalism in the EU.

5. The EPSU considers it to be a matter of political urgency to oppose the neo-Liberal economic and social model firmly ensconced in the EU Treaties so far with an alternative model based on social Europe. It is only in this way that the EU will be able to overcome its current profound crisis of confidence. The EU must stand for a policy of full employment, boosting mass income, overcoming social inequality, preserving the welfare state, abolishing socially unprotected conditions of employment and extending workers' rights and industrial democracy. Only if the EU succeeds in this social transformation will it have the lasting support of the population.

2. Redesign the economic model of the European Union

6. With the Single European Act (1987) and the Maastricht Treaty (1993), the neo-Liberal philosophy gained ideological dominance in the European integration process. The objective laid down in the Single European Act (SEA) was the completion of a single internal market with the four fundamental freedoms of movement of goods, services, persons and capital. The Maastricht Treaty launched the introduction of economic and monetary union. When devising these two socio-economic priority projects, the EU States very deliberately renounced the simultaneous creation of a social union, a tax union and a European collective bargaining system.
7. Dumping practices are structurally programmed in the European form of economic and monetary union, in which the currency is subject to joint competence, i.e. is European, but the wage, social and tax policies expressly remain in the hands of the Member States. In such a system, the Nation States compete for international capital investment on the basis of wage and social costs and the amount of company taxes. The European EMU set in motion general competition for the reduction of the wage bill, the reduction of the welfare state and the cutting of company taxes.
8. This form of inter-State competition for location can be termed as the system of competing States. The system of competing States is a strong engine for achieving the objectives of neo-Liberalism: the State, and especially the welfare state, can be cut back, wage and social costs and company taxes reduced and market forces given ever greater scope through deregulation and privatisation.
9. Furthermore, the macroeconomic objectives of the neo-Liberal model are achieved in the European form of economic and monetary union. The Maastricht Treaty imposes the primary objective on the European Central Bank of combating inflation. In addition, the financial policy based on the Maastricht Treaty and the EU regulations under the so-called growth and stability pact focuses primarily on consolidation of the public budgets. The scope to stabilise the economic trend by controlling income and expenditure, i.e. by means of the so-called fiscal policy, is thereby substantially curtailed. Since in contrast to the Werner plan of the early 1970s there is no European economic government in the Maastricht EMU variant, it is de facto impossible to coordinate the fiscal policy of the Member States effectively in the euro area, let alone achieve coordination and appropriate combination of monetary and fiscal policy (policy mix). The weaknesses of this economic policy structure became clear in the euro area especially after the new economy bubble burst in 2001. In contrast to the USA, the ECB and the governments of the euro area were not actively combating the economic stagnation from 2001 to 2005 by means of an anti-cyclical policy.
10. In the current world economic crisis, which is having a considerable impact on the European States, the limitations of the EU's ability to act are proving to be particularly flagrant. Although the EU is a highly interdependent economic area in which the Nation

States are scarcely in a position to conduct an independent short-term economic policy any more, the Commission does not have the competence to prescribe an urgently needed anti-cyclical programme for the Union as a whole. Instead, important national actors – France and Germany – get bogged down in quarrels on the scale of and the instruments for an incentive programme without the Commission having the right to make these States see reason and to impose a European programme on them. Unlike the USA, the EU therefore has only limited capacity to reduce the scale and duration of the economic crisis through rapid, targeted action.

11. The following demands for reform arise for the EPSU from this criticism of the current EU economic policy:

- a) Equal commitment on the part of the European Central Bank to the objectives of high economic growth, full employment and high monetary stability. The conflicts of aims arising time and again from this commitment are to be accepted; they force the ECB to adopt a flexible monetary policy and to coordinate its policy with the fiscal and wage policy.
- b) In the short to medium term, it must be a matter of coordinating national policies at EU level in such a way that the scope for economic policy action is used more effectively and appropriate coordination between the European monetary and the European fiscal policy is achieved. To this end, the competence could be transferred to the EU Commission, in cooperation with the Council of Ministers of Economic and Financial Affairs (Ecofin), to establish the broad outlines of the fiscal policy of the Member States in accordance with their respective economic configurations (consolidation or expansion course).
- c) However, a precondition for such a policy is the fundamental revision of the inflexible stability and growth pact (SGP) of 1997. The SGP requires all Member States to avoid “excessive public deficits” of over three per cent of gross domestic product (GDP). This rule, which is also laid down in the Maastricht Treaty, was tightened up once again in 1997 following the Amsterdam Summit. Even after its latest reform of 2006, the SGP continues to oppose the need for an anti-cyclical fiscal policy. In a crisis situation with snowballing public debt, the EU States must be able to stimulate demand in order in this way to close gaps in demand arising in the market process. To this end, deficits caused by the economic situation must be accepted. In expansive periods of growth, additional tax revenue must also be used to reduce budget deficits. However, restricting new debt should not be an objective to be followed dogmatically during boom phases, since debt financing of future investments, for example in the education sector, may be a worthwhile task of the State.
- d) The policy of tax dumping is to be ended by a common tax basis for company taxes and European minimum tax rates for income and company taxes and harmonisation of tax assessment provisions.
- e) In the long term, however, consideration must also be given to shifting still further decision-making powers in economic and anti-cyclical policy to the European level. France has already been calling for this for several decades under the concept of a European economic government. It hereby aims to establish an institution of equal rank for fiscal policy alongside the strong ECB institution in order to put monetary and fiscal policy on a par and to allow effective European anti-cyclical and economic policy. This demand is to be supported in principle. Fiscal policy must be better coordinated at European level. This applies especially for the Euro area. However, policy coordination is not an end in itself. It must be used to ensure growth, employment and ecological conversion. A European economic government, in the responsibility for the implementation of an expansive economic policy, would stand for qualitative growth. It should also take over responsibility for Community tasks,

such as the construction of an efficient transnational infrastructure. Its own supplementary powers of taxation and funding are appropriate to finance these tasks. European economic policy worthy of the name is dependent on its own financial autonomy.

- f) The budget must be reapportioned at the latest in the next programming period (from 2014):
 - o The focal points of the budget must be growth, employment and social affairs. In order to upgrade the social sector, it is necessary to upgrade or reorganise the European Social Fund (ESF) already in existence.
 - o This should be able to act independently outside the structural policy and be strengthened financially. The Fund should not be available predominantly to the economically less-favoured regions as hitherto, but to all those in need of support to combat problems on the labour market (such as, for example, high unemployment, low women's labour force participation rate, high number of early school-leavers, low further training rates – i.e. in achieving objectives as laid down under the current Lisbon process).

3. Coordinate welfare state policy at European level

12. Against the background of a changed social ideology and on the basis of various factors, such as mass unemployment, budget deficits and demographic changes, the welfare states in Europe have also come under pressure since the beginning of the 1990s. Under the supply philosophy, the performance incentives are to be activated through withdrawal of the State and especially the welfare state, thereby promoting growth forces. As a result, in all European countries, reforms have been carried out of the health, pension and labour market systems which entailed a considerable reduction in social benefits for citizens. In the health systems, the list of benefits has been cut back and at the same time the additional payments and own contributions by patients increased. In the pension systems, the eligibility criteria have been tightened up and the pension formulas modified. As a result, the relative level of pensions and the income replacement ratios have been reduced significantly, a process which will gather pace considerably in the coming decades on account of the pension reforms already decided. As regards unemployment insurance too, the eligibility periods and the income replacement rates have been reduced. The long-term unemployed have experienced particularly sharp reductions.
13. The downward spirals in social benefits are reinforced by the intra-European system of competitive States. Lower social welfare expenditure, which on average in Europe is about 30% of gross domestic product, is considered to promote competition and to boost international competitiveness. In the 1970s and 1980s, social welfare expenditure was still rising at a faster rate than domestic product. The social benefits ratios, which measure the ratio between the total social expenditure and total revenue of a State, therefore rose everywhere. The richer the States were, the higher their social benefits ratios and this relationship was very high in statistical terms (80% coefficient of determination).
14. Since the 1990s, however, this ratio has declined in Europe. States with a very high social benefits ratio in European comparison, such as Sweden, Denmark, Finland and the Netherlands, have made cut-backs in the welfare state. Their social benefits ratios have in some cases fallen sharply, but in Scandinavia are still well above the Western European average. Economies which are catching up, such as those of Ireland and Spain, uncoupled the welfare state from economic growth and cut their ratios considerably. The same phenomenon is to be observed in the Central and Eastern European States, especially in the three Baltic States, Slovakia and Poland. If States

uncouple their welfare state expenditure from economic growth by reducing it in order to procure advantages in intra-European competition, this can be termed as a social dumping policy. Such a policy entails high risks of contagion. In the field of welfare states too, it can therefore be said that in the absence of coordination of the policies in the European arena, social dumping will continue to spread.

15. In a new European economic and social model, the logic of the system of competitive States should also be broken through in this political field by means of a re-regulation policy at European level. The EPSU therefore calls for creation of a social stability pact for the European welfare states, in which it would be agreed that the size of the welfare state is linked to the level of economic development of the respective States. There are four clubs of States in the EU – measured in terms of per capita income. For each club, a range of social benefits ratios should be established. The club of the richer States would have a higher range than the club of the poorer States. States catching up economically would move from a low range to a higher one.
16. Agreeing such ranges would achieve the following:
 - ✓ There would be an end to the policy of social dumping. As a result, individual countries would be unable to procure competitive advantages for themselves through a below average social benefits ratio measured against the level of their revenue.
 - ✓ The less developed economies would not be overchallenged by this form of social policy regulation. They would have to make available only the level of social benefits which they can “afford” given the level of their revenue.
 - ✓ In the course of the economic catching-up process of the less developed countries, the social benefits ratios in the EU would converge; the expenditure for old age, illness, incapacity for work and unemployment would be correlated not only in relative, but also in absolute terms. The ranges of the lower and middle income groups would rise.
 - ✓ The quantitative regulation of social policy would initially be confined to a minimum at EU level; no provision would be made for redistribution of income between the Member States. Since in this way only the aggregate values (social benefit ratios) would be regulated, the autonomy of the EU States within the meaning of the subsidiarity principle would initially remain unaffected as regards the distribution of social expenditure among the various benefits (pensions, illness, unemployment, family support).
17. The introduction of a regulatory concept of this kind would break the neo-Liberal regime of the competitive States in the field of welfare state policy. An economic and social policy of convergence along the road of progress would come about within the meaning of the social stability pact. Dumping strategies, as practised by Ireland and Spain in the old EU and as pursued in the group of the new Member States in the meantime by the three Baltic States and Slovakia, could in this way be prevented from the outset.

4. Activate the labour market policy of the European Union

18. To combat unemployment in Europe effectively, there is a need first and foremost for economic policy to take a new direction (cf. section 2). Labour market policy measures and structural reforms can succeed only in a favourable macroeconomic environment which focuses on overcoming the existing weaknesses in growth. In order to improve its international competitive position, Europe must build on this with its global competitors in competition for quality instead of in competition for the lowest wages and social standards. Europe must reflect on its strengths, which lie in the high quality of its goods

and services, well educated labour force and regulated socially protected working conditions. Therefore the positive approaches of preventive and active labour market policy must return to the fore in the EU labour market policy: active labour market policy measures are necessary to integrate more people in the labour market and to counter the splitting of the labour market.

19. To prevent cases of “insecurity”, there is a need for national and European initiatives to improve the contractual situation of new forms of employment to ensure the same standards of labour and social law for atypical conditions of employment as for so-called normal conditions of employment and to prevent the growing marginalisation through exclusion from the normal labour market. Europe-wide protection of atypical and insecure working conditions is essential to prevent the further erosion of social standards. All this of course implies a strategic labour market policy model which focuses on improving the quality of work as a key objective. The labour markets must be regulated in such a way as to combat cases of both “insecurity” and “poverty” through better European provisions for part-time work, temporary work, contract work, working hours, protection against unlawful dismissal, replacement wage regulations in the event of unemployment and preventive and active labour market measures.
20. Cross-border employment and posting of workers are increasingly developing into a key field of European social policy. Increasing migration, free movement of labour and unrestricted freedom to provide services jeopardise the European social model if the interests and entitlements of dependent employees are not moved to the centre of the EU policy but remain the plaything of a neo-Liberal internal market policy. The Member States are called upon in this respect, in accordance with their national conventions, to reinforce the standard working conditions and to limit evading them through atypical forms of employment.
21. The EPSU therefore calls for:
 - ✓ Improvement of the EU Working Time Directive, which does not call into question the ECJ case-law on on-call service (= working hours), limits the extension of the reference period to contractual exceptions, puts an end to the erosion of the limit on the maximum weekly working hours through individual “voluntary” agreement (so-called individual opt-out) and provides for a right to change working hours for family policy reasons.
 - ✓ Revision of the EU Posting of Workers Directive with the aim of applying the place of work principle consistently and without leaving room for doubt and thereby being able to provide by law for the same working and remuneration conditions for the same work at the same place.

5. Strengthen fundamental social rights in relation to market freedoms

22. The many years of discussion on the European Constitution and after its failure on the Basic Treaty of Lisbon should have provided the opportunity to overcome the uncoupling of the economic order from the social order of Europe. Instead of this, the dual system is laid down with its neo-Liberal European economic constitution on the one hand and the national welfare state traditions and social policy protection mechanisms of the Member States on the other hand. However, this dual system is not balanced. Its imbalance stems from the fact that the so-called fundamental freedoms, i.e. the “free” movement of goods, the “freedom” of establishment, the “freedom” to provide services, the “free” movement of capital, i.e. the market freedoms, are given the upper hand. If it were to enter into force without amendment, the Basic Treaty of Lisbon would establish this position in a virtually irreversible manner.

23. The pathetic choice of words (“fundamental freedoms”) is designed to mask the fact that here it is not a question at all of civil rights and liberties in the tradition of basic European values, but merely of admittedly binding, but bald contractual rules for the deregulation of the European market. The Charter of Fundamental Rights of the European Union is suited only at first sight to remedying this deficiency. By the general provisions in Article 53 of the Charter placing the so-called fundamental freedoms, i.e. those of the market, on a par with human rights, the constitutional guarantees of the fundamental rights are modified in accordance with market conditions and thereby lose their value.
24. The European Court of Justice has increasingly acted as a pioneer of almost limitless extension of the so-called EU fundamental freedoms at the expense of the key guarantees of national constitutional law, ever since the changed staffing of its trial courts since the 2004 EU enlargement. Its case-law aims to place different regulatory levels directly in competition with one another and thereby to forge on with the competition between rules.
25. The ECJ judgments handed down in 2007 in the Viking and Laval cases give systematic priority to freedom of establishment (Viking) and the freedom to provide services (Laval) over the right to strike and collective bargaining autonomy, without justification by the EC Treaty.
26. According to the ECJ, the EU Member States may restrict the freedom to provide services and freedom of establishment only if it is justified by the “overriding reasons of public interest”. Each strike and each collective agreement is examined by the ECJ at the expense of the respective Member States in accordance with its socially unclouded preconception of whether the respective reasons are in fact “overriding”. In this connection, the social content of the collective agreements may not carry decisive weight as employee interests are not the same as the general interest. Without being empowered to do so by the EC Treaty, the ECJ decides what overriding reasons of public interest are under its own authority. In this connection, the right to strike and the collective bargaining autonomy are not protected for their own sake, but only called on when examining the “overriding reasons of public interest” alongside various other considerations and as a result are rendered valueless. In the Viking case, the ECJ even goes so far as to find that human dignity should be brought in line with the market freedoms.
27. German laws on compliance with collective labour agreements are considered by the ECJ in the Rüffert case (2008), in stark contrast with the opinion of the ECJ Advocate General, to be an infringement of the Posting of Workers Directive, which it restricts in the light of freedom to provide services.
28. The ECJ decision against the Luxembourg occupational health and safety law is along the same lines. With a socio-politically one-sided analysis of all potential objections to the individual regulations of the Luxembourg Posting of Workers Act, the ECJ shows that it interprets the Services Directive extremely extensively. The ECJ reverts to the Bolkestein era and in its interpretation of the Posting of Workers Directive ignores the improvements to the original Commission draft of the Services Directive, enforced by the European Parliament.
29. With Viking, Laval, Rüffert and Luxembourg, the ECJ, without being legitimated by European law to do so, wishes to place limits on the right to strike, the collective bargaining autonomy and the protective standards of the welfare state of the Member States themselves where these can take priority in the national Constitution and claim

protection. Where these rights and protective standards have anyway so far only shown stunted growth in many States of Central and Eastern Europe, the respective governments are encouraged in their anti-union policy by the ECJ.

30. The EPSU criticises the fact that the ECJ, in any case the EU body with the least democratic legitimacy and the greatest lack of transparency, distinguishes itself on its own authority as pioneer and consequent enforcer of a neo-Liberal economic and regulatory system to a large extent stripped of any control of fundamental rights and as a result proclaims the primacy of the market freedoms over the employment and social regulations of the Member States and even over human dignity, which are to be brought in line with the market freedoms. The latest ECJ case-law puts the loyalty of workers in the EU heartlands to an acid test. As a result, an end must be put to the judgments. Compliance with collective labour agreements must continue to be a socio-political mainstay of public procurement law.
31. The 8th EPSU Congress calls for:
 - ✓ Socio-political legal instruments, such as the Posting of Workers Directive, and fundamental (social) rights, such as the right to strike, may not be subordinated to the so-called fundamental freedoms of the internal market. The tensions between the “fundamental freedoms” and the fundamental social rights must be resolved in favour of the fundamental rights. Fundamental social rights must be given priority over rules of competition and fundamental freedoms of the internal market. This is to be made binding through adjustments in the directly applicable EU law (primary law). It must also be laid down as binding in the Treaties that the EU serves not only economic, but also social progress.
 - ✓ In this connection, the principle of “equal pay and working conditions for the same work at the same place” must be enforced. The Posting of Workers Directive must be amended so that the working and pay conditions of posted workers – with application of the favourability principle – follow the labour law and law governing collective agreements at the place of work unequivocally and comprehensively.
 - ✓ Effective transnational cooperation between authorities must be ensured for effective control of the pay and working conditions of posted workers (protection of service and enforcement abroad). Effective domestic controls may not be counteracted by lax European legal provisions.
 - ✓ The EPSU calls on the EU Council in the near future to adopt a position in favour of these principles. The European trade union movement can and will not accept continuation of the European integration policy under neo-Liberal auspices, a policy which fundamentally threatens the interests of millions of European workers. The European unions therefore reserve the right in future referendums on new EU legal instruments to express a no vote and to block the further unification process until the fundamental social rights are given priority over the “fundamental freedoms” of the market in EU primary legislation.

6. The EPSU calls for: Europe not to be less but more, and more social!

32. Analysis of the economic and social Constitution of the EU and the ECJ case-law has shown that the current configuration of the European Union paves the way for at times fundamental infringement of the interests of workers in many respects. The declining interest of the population in the EU goes hand in hand with the loss of confidence of the dependent employees in the power of the European Union to afford them social protection. Their mistrust is based precisely not on “paucity of information” concerning European integration or on the remnants of an awareness which still bears the stamp of the Nation State, but on the personal experience that under its current approach, the EU promotes wage and social dumping and no longer is in a position to restore full employment.

33. The EPSU criticises the attempt to give constitutional priority and therefore virtual perpetuity to the neo-Liberally inclined economic and social policy in the form of the EU Treaties. The EU Treaties thereby far exceed the political scope of the national Constitutions of the Member States. No EU Member State possesses a Constitution in which the direction of monetary and fiscal policy is laid down. No State is based on a system of competitive federalism enshrined in constitutional law. The unilateral establishment of the EU Treaties infringes the content-related provisions and socio-political protections of the Constitutions of many Member States. The system of competitive States with its negative effects on the wage, social and tax policies would become almost perpetual through the Lisbon Treaty. The EPSU will fight this.
34. The growing EU scepticism reveals that the consequences resulting from the economic and social constitution for EU citizens meet with growing unease. After the failed referendums in France, the Netherlands and Ireland, the EU should finally abandon the policy of "more of the same" without question and conduct a Europe-wide social debate on the social future of the Union. This should lead to a new EU Treaty in which the focus in terms of content of the social policy, for which the democratically elected governments of the Member States are accountable, is treated with no preconceived results. The fetters must be removed from the monetary and fiscal policy and scope obtained for a policy oriented towards growth and employment. In the wage, social and tax policies, dumping practices must be prohibited through regulations at European level.
35. Our answer to the dynamics inherent in a system of national competitive States cannot exist in the formula "More Nation State, less Europe". On the contrary: we need more Europe, but different. However, this requires a new regulatory system for the economic and social policy in Europe. In other words: a policy which gives the alternative European social model a future. On the other hand, keeping rigidly to neo-Liberalism will jeopardise the European integration process and contribute to a return of nationalism and protectionism. If wage, social and tax dumping are incited, it is hardly surprising if the peoples of Europe treat one another increasingly with distrust instead of reaching out to one another. A European social model would build bridges over the current differences. Only by achieving a democratic and social Europe can the risk of growing alienation of citizens towards the European idea be overcome.

9 June 2009