



Zagreb Platform

Trade union demands regarding the implementation of the Memorandum of Understanding on the Social Aspects of the Energy Community and the National Social Action Plans

September 2008

The energy trade unions of South East Europe and their European Federation of Public Service Trade Unions (EPSU) have been actively involved to obtain a social dimension to the Energy Community both at national and regional level since 2004. The Energy Treaty was signed in October 2005. The Energy Treaty does not have a social chapter. It does not deal with the possible social consequences of the restructuring of the energy sector for workers and citizens. The trade unions in the Energy Community countries established our demands for a social dimension in the **Skopje Platform**¹ and the **Vrnjačka Banja statement**². We now develop this further in the **Zagreb Platform** taking into account new developments.

Following the Skopje Platform, the trade unions organized several actions and ensured that protection of citizens and especially low income users and of workers became high on the political agenda. The European Parliament supported the trade union demands (May 2006). The European Commission (DG Energy/ DG Employment) worked with the governments and the trade unions to draft a Memorandum of Understanding (MoU) social aspects of the energy community. It was signed October 2007, Vienna.

We have welcomed the Memorandum with its focus on public service obligations, affordability issues, social dialogue, information and consultation, trade union rights etc. The Memorandum foresees that working groups are established to develop National Social Action plans to implement the MoU. These working groups are to be composed of employers, trade unions and government representatives. They have been set up.

The MoU also foresees the establishment of a Social Forum to discuss and consider the experience of the countries in implementing the MoU. We have noted with satisfaction that the Energy Community Secretariat and the European Commission (DG Employment) together with the European social partners have played a key role in ensuring progress with the establishment of the Social Forum. A template of actions was proposed following a workshop in Vienna (27 May 2008) and the first Social Forum will be organized 18-19 November 2008.

In order to prepare for the Social Forum the trade unions met during the 8th Energy Round Table organized by EPSU, its global sister federation PSI and FES.

The trade unions make the following observations and points which we believe are to be discussed and treated at national level and during the Social Forum.

¹ <http://www.epsu.org/a/1460>

² http://www.epsu.org/IMG/pdf/EN_Vrjan_Banja_statement2_draft.pdf



1. Internal Market for Electricity and Gas

The central feature of the Energy Community is the establishment of a European internal market for electricity and gas. We note that the establishment of this market is accompanied by many problems and has not lead to lower prices for users. For more information we refer to the research of the University of Greenwich, www.psiru.org It has lead to a tremendous process of restructuring with many social consequences. Two studies of EcoTec for the European Commission on the opening of the electricity and gas markets have underlined this. (2007)³ The Memorandum provides a framework to address these issues at national and at the level of the Energy Community.

We demand:

- **Sufficient time** to establish effective and functioning institutions of the internal market. The experience in the countries of the European Union demonstrates that this will be a long process. **More time will also be needed to deal with the social consequences in a socially responsible manner. The National Social Action Plans should have clear time frames.**
 - **The more rapid the introduction of the internal market for electricity and gas, the more important are the Social Action plans, the guarantees provided and the shorter the time frame in which they need to be implemented.**
 - Governments, regulators, companies and trade unions should identify at each stage of the process what the possible consequences are and address these. The EU Security of Supply Directive and recent discussion in the European Parliament identify for example the importance of *high quality maintenance and repairs for networks and power plants*. Restructuring and outsourcing can be detrimental to this. How will this be guaranteed?
 - The developments in the EU have resulted in shortages on the labour market for skilled workers, and the potential risk that planned investments in new capacity and networks will be delayed. For South East Europe, there can be similar effects. It can also result in a brain drain. The social action plans should address how the sector will continue to attract high skilled workers.
 - **The linking of National Social Action Plans to the legislation introducing the internal market for electricity and gas, and to National energy strategies and programmes of international financial institutions.** This will ensure that the legislation introducing the internal market will take account of the social consequences. The same counts for the national energy strategies. The road maps developed by each country are to be adapted so as to have chapter on how the countries deal with the situation..
 - There should be **no forced redundancies**.
- **A moratorium on privatization of the electricity and gas utilities.** The EcoTec study (see below) indicates that introducing the internal market for electricity and gas and at the same

³ <http://www.epsu.org/a/2939>



time privatizing the utilities has an enormous impact on workers. The experience of trade unions with new, mostly foreign based, owners is not positive and has given rise to strikes to defend the interests of workers faced with dismissal and worsening of pay and conditions.

- On top, Europe is now entering a phase of **financial and economic crisis** and needs stability. Subjecting the essential infrastructures to the extreme volatility of stock markets and their demand to meet quarterly and half-yearly profits targets, has an impact on the long-term planning and security of supply the companies need.
 - **Agreeing not to privatize** the electric and gas utilities will further create a positive climate to establish the social dialogue, the social action plans and the necessary institutions to control the internal market.
- **Democratic and participative regulatory authorities that play an active role to protect low-income users and workers.** Trade unions and other social organizations should have a role with the regulator to represent the views on its policies. This position is to be structural. It prevents that the regulator becomes victim to being captured by large industrial interests with deep pockets to influence the regulator. It is part of a system of democratic checks and balances.
- The regulators should furthermore take an active interest to ensure affordability. Gas and Electricity prices should reflect the costs and a fair rate of return rather than what the market will carry. Government tax and subsidy policies to assist low income users should be allowed. The regulators should apply the policies of the national social action plans.
 - Regulators should control the wholesale markets and these prices.
 - Regulators play an important part to ensure security and quality. They should ensure maintenance and repairs are done regularly⁴ and by qualified staff. Regulators can monitor if companies have sufficient staff to ensure they meet their obligations, towards citizens and business but also towards employees. Companies that do not respect labour and other legislation, collective agreements and social agreements in the case of restructuring should see their licenses to operate being taken away from them.
 - Not much progress appears to have been achieved on this front. We demand that the regulators enter into discussions with the trade unions and establish a regular dialogue.

2. National Social Action Plans

The national social action plans are the most important instrument to realize the social dimension of the Energy Community. They are foreseen under the Memorandum and will be developed in consultation with the social partners. Working groups have been established in the Member States of the Energy Community to consider these.

⁴ An example is tree-trimming and vegetation management.



● **National Social Action Plans to focus:**

- **On the restructuring of the utilities and the consequences for workers.** The action plans should indicate the perspective for the sector (hence the link with the legislation and energy strategies), the measures that will be taken to ensure workers are not dismissed and that employment and training funds are available to enable change. Outsourcing should respect transfer of undertakings legislation, be based on agreement with the unions concerned and ensure for sufficient long protection to prevent social disasters for the workers concerned.
- **On establishing the social dialogue: the relations between employers and trade unions.** Collective agreements and sectoral social dialogue committees are natural and flexible ways forward. Governments should demand that employers/ companies play their part as constructive dialogue partners.
- **On implementing relevant European directives in the social domain. Priorities** are the working time and health and safety framework directive, directives on information and consultation at national level, transfer of undertakings and collective redundancies and the European Works Council Directive.
- **On addressing energy poverty.** The MoU identified affordability and public service obligations as key issues to ensure the internal market is accepted by citizens and people are not left behind. Disconnections of people because they do not have the ability to pay need to be prohibited. The European Parliament has made this a central issue in recent discussions on the amendments to the directives on the internal market gas and electricity. It demands national action plans on energy poverty. A broad coalition of anti-poverty groups and trade unions support this.⁵
- **On an inclusive process of dialogue with the International Financial Institutions** Several governments have discussions with the European and International Financial Institutions (IFIs) about investment in the sector. Governments should involve the trade unions in their discussions with the IFIs. The IFIs should also directly consult with the trade unions. The social dimension is then integrated also in the programmes of the IFIs

- **The translation of the EcoTec study in the languages of the Energy Community.** It will facilitate understanding of all parties. It provides an insight in solutions that have been found between companies and trade unions based on social dialogue and negotiations. The national governments and/or the European Commission should take care of this. It will be another positive sign that governments are serious in ensuring an effective social dialogue and mitigating negative social effects.

National Social Action Plans

The national action plans are the social road maps that accompany the internal market for gas and electricity as foreseen by the Energy Community

- √ Central to the MoU is the **involvement of the social partners**, based on a recognised European and international legal framework;

⁵ <http://www.epsu.org/a/4158>



- √ The first priority is an **effective process of dialogue**.
- √ The actions plans should be the result of discussion between unions, employers, governments. And while in most countries the working groups have been established, **concrete progress and in-depth discussion is still lacking**;
- √ The action plans should have detail and transparent **Time Frames and what governments will under take**.
- √ Addressing **energy poverty** and addressing **the social consequences of the restructuring process** for the workers involved are the two key elements. Much has already been done on affordability issues; far less on restructuring – this becomes a priority.
- √ **National collective agreements** that cover the companies (old and new entrants) in the electricity and gas **sector** and hence provide for a level playing field and basic protection and guarantees are considered essential. No companies should be allowed to escape their responsibilities for example regarding training and pension obligations. The agreements can define which companies are covered. Based on the national agreements there can be local and company specific differences in line with the traditions of each country.
- √ A focus on the **Social Acquis** – and how to transpose it needed. This requires (collective) agreements between employers, unions and governments.
- √ An action plan to address **energy poverty** and containing a **right to energy**
- √ Aiming for **regular dialogue between regulators and trade unions** should be part of the social action plans.
- √ **Reporting** will be to the Energy secretariat and the Social Forum with a regular feed back to national social partners and the European social partners
- √ Progress should be **monitored** through benchmarks and best practice experience. The Social Forum is a first test in November, Tirana
- √ The **Donor community is requested to assist** the process in the individual countries. Support for:
 - **Assisting the process of establishing the social dialogue** based on the experience in countries of the EU. Employers and trade union representatives will require training
 - Ensuring the restructuring process has as little as possible negative social impact. **Training, re-training, re-deployment programmes** are ways of dealing with it. These will require funding.

3. The status of the Memorandum of Understanding

It has been an important signal that the Memorandum of Understanding was signed by ministers or deputy ministers. All governments have shown therewith an important commitment to the social dimension. We have argued that the social dimension should have been an integral part of the Energy Community Treaty. The European Commission and the European Parliament have underlined the importance of this. The Memorandum itself states this possibility and further development. To move on and progress, we request the Ministerial Council to establish a



working group that will consider how the Memorandum becomes a binding instrument and gets sufficient legal status. This is a similar process as with the earlier Athens Memoranda.

4. Progress

The Social Forum is to become a permanent place for exchange of experience. This allows the countries of the Energy Community, while respecting each others diversity, different circumstances and history, to develop together, not just regarding the laws and legislation regarding the energy acquis, but also with regard to the social acquis. All countries have the ambition to join the European Union, and the trade unions support this. The European Commission and Energy Community countries should provide the funding for the continuation of the Social Forum.

The Social Forum should decide **to establish a working method that allows its follow up and preparation** for the future meetings. We have argued for a **Steering Group** which should have employer, trade union and government representatives on it. The European Social partners have indicated they are willing to play a role as well. The Steering Group can play a role in monitoring progress as well. We expect to see **substantial progress in June 2009.**

We request the establishment of **two working groups.**

- A **first** that focuses on the **impact of restructuring** on companies and workers and the measures that can be taken so countries can learn from previous experience and each other. It should be a place for concrete exchanges and assist trade unions and employers/companies to take the appropriate measures. It should benefit from experts from companies and trade unions that have gone through the process of restructuring.
- The **second** should focus on **the social acquis** and its implementation. Governments, trade unions and employers to receive concrete assistance from the European Commission, and also to find ways to implement the acquis for the energy sector even if labour law will take longer to implement.

The governments of **Ukraine, Moldova and Georgia** have all indicated that they want to become observers and then full members of the Energy Community. We welcome this. It is a positive contribution to energy security and stability in the region. We do expect the governments to sign the Memorandum of Understanding on the social aspects of the Energy community. This demonstrates their willingness to establish the social dimension as an integral part of their being member of the Energy Community. Already the governments should establish national working groups to ensure all parties are informed and prepared regarding the accession to the Energy Community.

Monitoring social progress is important. We request the European Commission alone or in liaison with the ILO to report on progress with social inclusion, social dialogue and collective bargaining, and the application of trade union rights and labour law. We have noted that health and safety obligations are often violated and that labour inspectorates do not have sufficient



resources for example. The right to strike is sometimes severely curtailed. The Commission can report back to the social partners and governments.

5. And our continued work

The trade unions also agreed in Zagreb to:

- Continue to inform each other of developments in the Energy Community and beyond. EPSU plays a crucial role in that regard as clearing house and for coordination.
- Complete the work on establishing an overview of industrial relation developments
- Inform the EPSUCOB@ of wage and other collective bargaining developments.
- Fight for addressing energy poverty. Our members are often faced with citizens who can not afford to pay their bills and see families in need. We want to learn from examples in other countries where workers reconnect families to ensure the right to energy