



Report on strengthening EU social dialogue

by Ms Andrea Nahles, Special Advisor on Social Dialogue to
Nicolas Schmit, Commissioner for Jobs and Social Rights

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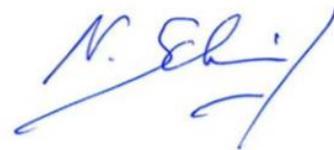
1. Foreword by Commissioner Schmit



A well-functioning social market economy needs an overarching social dialogue between active social partners. This is the case in certain EU Member States, but not everywhere. Therefore, strengthening and promoting social dialogue and collective bargaining through capacity building is an important objective of this Commission. In July 2020, I appointed Ms Andrea Nahles, former German Federal Minister of Labour and Social Affairs, as my special advisor on social dialogue and asked her to produce a report on how this can be achieved.

Her report very concretely shows a certain number of perspectives and recommends very pertinent initiatives. Thanks to her deep experience of social dialogue processes and labour market policies, Ms Nahles has identified the main issues at stake and produced a set of valuable proposals, which can feed into our preparations of the Action Plan to implement the Pillar. Her report is an important contribution to building a stronger social Europe by enhancing social convergence.

I very much hope that her focussed report, which was produced in close dialogue with the European social partners, will bring a new momentum and create a positive dynamic for implementing the actions proposed.

A handwritten signature in blue ink, appearing to read 'N. Schmit'.

2. Mandate for the Commission

The Commission appointed me in July 2020 as special advisor to Commissioner Nicolas Schmit on strengthening social dialogue in Europe and on the role of the social partners. My mission was to look into how social dialogue, including its structures at EU level, can be further improved. It was also closely linked with the preparatory work on the Action Plan on the implementation of the European Pillar of Social Rights to be presented by the Commission in March and endorsed on 7-8 May 2021 at a special social summit of the Heads of State and Government of the EU Member States under the Portuguese presidency. Commissioner Schmit asked me to produce a set of specific proposals for the Action Plan on how to consolidate and boost social dialogue.

Over the last six months, I have held many bilateral talks with leaders of European cross-industry and sectoral social partners. I also participated in a workshop with representatives of European and national cross-industry and sectoral social partners held by the Commission's Directorate General for Employment, Social Affairs and Inclusion (DG EMPL) on 12 November 2020 and in a meeting of the Liaison Forum on 14 December 2020. The social partners also provided me with written contributions (the European social partners' joint contribution of 18 December 2020¹ and ETUC's proposals on Reinforcing the Role of Social Dialogue of 15 December 2020²). All these meetings and contributions have enabled me to identify the main challenges facing European and national social dialogue and to collect the ideas of social partners on how to further promote social dialogue.

In all these exchanges, the following topics have proven to be of particular interest to social partners:

- Improving cross-industry and sectoral social dialogue structures (at European and national level);
- Improving transparency as regards the results of collective agreements and their application;
- Implementing and enforcing existing rules better and ensuring that tripartite consultation structures work efficiently;
- Boosting support for capacity building to improve the representativeness of social partners, particularly against the background of the COVID-19 outbreak;
- Fostering a better culture of social dialogue at national level, particularly among the new generation of future social partner leaders;
- Raising the profile of social dialogue, fostering awareness raising, and promoting the value of social dialogue.

¹ <https://www.buinesseurope.eu/publications/european-social-partners-joint-contribution-report-andrea-nahles-social-dialogue>

² <https://www.etuc.org/en/document/negotiating-fair-future-reinforcing-role-social-dialogue-resolution>

3. Proposals for the Strengthening of Social Dialogue

The EU social dialogue is enshrined in Articles 152-155 of the Treaty on the Functioning of the European Union (TFEU). The EU is under an obligation to promote social dialogue, while fully respecting the autonomy of the social partners and the diversity of national systems of industrial relations. On 27 June 2016, a 'Joint Statement on a New Start for Social Dialogue' was signed by the European social partners, the Commission and the Dutch presidency. The statement lists a set of actions falling under each actor and touching upon four priorities: 1) greater involvement of social partners in the European Semester; 2) a stronger emphasis on capacity building to benefit national social partners; 3) more involvement of social partners in EU policymaking and lawmaking; and 4) a clearer link between social partner agreements and the Better Regulation Agenda.

In the follow-up, the Commission boosted the role of social partners in the European Semester, improved their involvement in policymaking and lawmaking by introducing new forms of social partner consultations, and placed greater emphasis on capacity building for national social partners in its proposal for the ESF+. However, there are some remaining differences of views between the Commission and some social partner organisations as regards the Commission's role in assessing requests for social partner agreements to be incorporated into EU law.

Promoting social dialogue is also enshrined in principle 8 of the European Pillar of Social Rights, adopted at the Gothenburg Social Summit in November 2017.

Social dialogue is an essential precondition for a balanced social market economy and for the operation of the Single Market. This is true at both national and EU level. Social dialogue plays an even more crucial role in times of economic crisis like the current one unleashed by the COVID-19 pandemic. In 2020, European social partners endorsed 43 joint statements concerning the COVID-19 pandemic. Social dialogue ensures that all interests and experiences are heard and taken into account. It also contributes to stabilising employment, reducing inequalities, and building resilience, and thus helps mitigate the impact of the crisis and support a sustainable recovery. Our common goal is to boost social dialogue and create the right conditions for mobilising and using its full potential. Any existing legal barriers hindering the development and the work of national social partners should be identified and abolished.

Raising the profile of social dialogue within the EU and increasing awareness of its importance

- (1) **A new award for innovative social dialogue:** the usefulness and value of social dialogue should be regularly emphasised and made visible in all Member States and at EU level.

I therefore propose the launch of a new European award for social dialogue. The purpose of this award would be to highlight the benefits of social dialogue and support the dissemination of good practice across Europe. It should be awarded every two years with the help of an independent jury, and there should be different categories, such as sectoral and cross-sectoral collective agreements, company agreements, and achievements of works councils.

- (2) **A new programme for young future leaders of social partner organisations:** a number of Member States still have a relatively weak culture of social dialogue, owing to historical developments or political and ideological traditions which

hamper an effective dialogue between employers' organisations and trade unions. At the same time, social partners throughout Europe need to nurture within their organisations young people potentially capable of taking on leadership roles in future in a fast-changing socioeconomic and working environment.

To further improve the culture of social dialogue and support the young leaders of the future, I propose that the Commission organise an annual two-to-three-week programme of visits and information sessions in Brussels for young future leaders of national employers and trade union organisations. Apart from familiarising participants with the EU institutions and European social partners, the programme should also provide them with opportunities to establish informal contacts and for networking between the two sides of industry. A follow-up meeting could round off the programme.

Improving the structures and processes of European social dialogue

- (3) **Greater involvement of social partners in the European Semester:** social partners are a special category of stakeholders. With their unique expertise and legitimacy, they belong to the European culture of the social market economy. Since the New Start for Social Dialogue in 2015, the Commission has boosted the involvement of social partners in the European Semester, particularly at European level, but also at national level. However, this involvement of national social partners in the European Semester and in employment and social policies remains unsatisfactory in a number of Member States. The right to be involved often exists on paper only, not in practice.

In the 2021 Annual Sustainable Growth strategy, the Commission has called on Member States to engage in a broad policy dialogue with social partners when drawing up their Recovery and Resilience Plans. In the guidance to Member States on the Recovery and Resilience Facility, it has asked Member States to outline in their plans how they have consulted the social partners and involved them in designing the reforms set out in the plans. I therefore call on the Commission to monitor the involvement of national social partners in the preparatory work on the national Recovery and Resilience Plans.

- (4) **Review the workings of the Tripartite Social Summit and the Social Dialogue Committee:** the Commission and social partners have expressed the wish to improve the workings of the main bodies for tripartite and bipartite social dialogue at EU level: the Tripartite Social Summit and the Social Dialogue Committee.

More could be done to improve the level of discussion and interaction at the Tripartite Social Summit and to make the discussion more relevant to European Council meetings. I therefore propose the setting up of joint working groups comprising representatives of the European Commission and of social partners³, with a view to improving the workings of the Tripartite Social Summit and the Social Dialogue Committee and making them more effective.

- (5) **Improved consultations of social partners on new Commission initiatives:** in recent years, the Commission has introduced new forms of social partner consultations on planned policy or legislative initiatives. While the consultation of

³ Representatives of the General Secretariat of the Council of the European Union should be part of the working group on the TSS.

social partners works relatively well in employment and social policy, there is room for improvement in other policy areas. All of the Commission's directorates-general should ensure that social partners are consulted in a timely and meaningful way on relevant new initiatives. Executive Vice-President Dombrovskis and Commissioner Schmit wrote a joint letter on the subject to their fellow-Commissioners in the summer of 2020, which has led to some improvements.

To ensure a more consistent approach to consultations of social partners throughout Commission departments, I propose that each directorate-general appoint a member of staff responsible for social dialogue. These social dialogue coordinators should work together with DG EMPL and ensure that social partners are involved and consulted on new initiatives at an early stage.

- (6) **More European social partner agreements:** agreements negotiated by the European social partners are among the most important and effective outcomes of social dialogue at EU level. Europe needs more social partner agreements. It is the prerogative of social partners to negotiate and conclude such agreements autonomously. The 2020 agreement on digitalisation concluded by the European cross-industry social partners is a good example of an autonomous agreement to be implemented by national social partners.

As regards agreements whose incorporation into EU law has been requested by the European social partners, the European Court of Justice is set in the coming weeks to hand down its judgment on the appeal brought by EPSU (the European Federation of Public Service Unions) against the General Court judgment of October 2019⁴. Following this judgment, the Commission will have to clarify how any future requests by EU social partners for the incorporation of their agreements into EU law are to be handled. A transparent process based on clear criteria is needed.

- (7) **Promotion of national registries for collective agreements:** collective and company agreements should be centrally registered at national level. Such national registries could be an important tool, as they are a valuable information resource, ensure transparency, and can help the social partners when negotiating new collective agreements. However, such registries exist only in some Member States. I therefore propose that the Commission provide funding opportunities for setting up national registries for collective agreements in all Member States.

Supporting capacity building to benefit national social partners

- (8) **Funding:** the capacities of national social partners vary substantially across Europe. In recent years, the European social partners have urged the EU to step up its financial support for capacity building and have called on national governments to make better use of the available funding. The COVID-19 crisis has brought additional challenges for national social partners. The proposal for an ESF+ Regulation maintains the obligation on the Member States to ensure that the social partners play an appropriate role in the delivery of the ESF+. To this end, the proposal states that an appropriate amount of ESF+ resources should be earmarked under each programme for capacity building to benefit the social partners and other stakeholders.

⁴ T-310/18 - EPSU and Goudriaan v Commission.

In view of the above, I would advise the Commission to provide additional and targeted support for national social partners. I call on the Commission to facilitate the programming of ESF+ to support capacity building in national social partners, based on the needs identified by national social partners in relevant Member States. In this context, I welcome the European cross-industry social partners' ongoing project, designed to identify the specific needs of national social partners more accurately. National governments and social partners should discuss how to make best use of the EU funding available to support capacity building. The Commission could support such efforts by doing more to promote a process of learning from each other and the sharing of successful practices among EU countries.

The recently increased funding for COVID-related capacity building projects to support national social partners under the 2020 EaSI programme and under the 2021 call for proposal on social dialogue is a step in the right direction.

- (9) **Improved exchange of experience and best practice:** in the light of existing differences in terms of capacities and national conditions, an exchange of experience and best practice would be a useful way to foster and boost social dialogue in Europe. I therefore propose the setting up of a platform for the exchange of best practice on social dialogue, with support from the Commission.
- (10) **More dialogue on future-oriented subjects:** social partners should hold debates on the future of work more often. Forward-looking debates of this nature are sometimes held at company level on digitalisation or the transition to climate neutrality. Social partners should decide how such forward-looking dialogues could be promoted. In my view, the relevant existing tripartite EU agencies (Eurofound, CEDEFOP, and EU-OSHA) could play a useful role here. Social partners could propose including forward-thinking dialogues of this nature on social dialogue in future work programmes.

4. Further Political Suggestions

The purpose of the European Pillar of Social Rights is to encourage the levelling up of living and working conditions in Europe. Its implementation should close existing regulatory loopholes, which could adversely affect workers' involvement at company level. The Commission should assess whether to propose a revision of the European framework directive 2002/14/EC on workers' involvement and information and consultation rights so as to include common minimum standards for European and national companies, to prevent misuse in the form of letter companies or chains of subcontractors.

The above proposals on social dialogue should also feed into negotiations with candidate countries and into the programmes for the Eastern Partnership.

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