



Contribution of the Federal Public Service Employment, Labour and Social Dialogue (FPS ELSD) to the EU public consultation on the action plan for the European Pillar of Social Rights; supplemented for principles 2, 3 and 20 by the Equal Opportunities Unit (FPS Justice) and the Institute for the Equality of Women and Men.

(Contribution in the framework of the consultation by the European Commission
<https://ec.europa.eu/social/main.jsp?catId=1487&langId=nl>)

Sources:

- Memorandum FPS ELSD to the next government.
- FPS ELSD' vision of the priorities of the von der Leyen Commission.
- Memorandum Equal Opportunities Unit to the next government.

Supplemented by:

- HIVA- various contributions and EMCO - discussion on the Employment Guidelines 2020 (a.o. because of the corona context)
OSE – Social policy in the European Union 1999-2019: the long and winding road.

Aim of the contribution

How can the European Pillar of Social Rights continue to be a "compass" for employment and social policy? What additional initiatives are needed on the basis of the lessons of the Covid 19 crisis? What update is required in the context of the Green Deal?

Structure of the contribution.

This contribution follows the structure of the Pillar and the various principles of the employment policy (1-13)¹and principle 20

¹ Zie https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_nl

Chapter I: Equal opportunities and access to the labour market

1. Education, training and lifelong learning

Proposal:

The FPS ELSD is in favour of a European regulation - preferably a recommendation – that creates an individual right to lifelong learning, for example in the form of a career account. Best of all, this would be an individual right in the form of a certain amount of money or a certain number of days and not a company-specific right. Transferability between Member States also needs to be regulated.

2. Gender equality (in all areas, including participation in the labour market, terms and conditions of employment, career progressions, equal pay for work of equal value).

The FPS ELSD and the Institute for the Equality of Women and Men continue to support a legal initiative to include more women on company boards and hope that negotiations on the draft EU directive in this area can be relaunched.

The Institute for the Equality of Women and Men is in favour of a legislative initiative by the European Commission in order to improve wage transparency within the Member States.

3. Equal opportunities (regardless of gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation; right to equal treatment and equal opportunities regarding employment, social protection, education and access to goods and services available to the public. Fostering of equal opportunities for under-represented groups).

The FPS ELSD remains convinced of the added value of the proposal for a " Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation" which extends protection against discrimination on grounds of religion or belief, age, disability and sexual orientation to areas other than employment. The FPS intends to continue its constructive efforts in order to bring the long-running negotiations in the Council to a successful conclusion.

As regards the promotion of equal opportunities for under-represented groups, the Equal Opportunities Unit considers that monitoring is appropriate in order to examine the situation of the sectors and to identify developments. It is important that companies, sectors and public authorities set targets and have the necessary figures at their disposal, while respecting the rules on the protection of privacy.

The Equal Opportunities Unit recommends encouraging the social partners to develop programmes or codes of conduct to prevent discrimination. Social partners as well as companies and organisations are encouraged to develop diversity plans with concrete objectives and positive actions. The Commission can make support to the sectors dependent on the results. At the same time, the Commission can provide support to companies wishing to take positive action.

The Institute for the Equality of Women and Men is in favour of the recognition of multiple discrimination, that is, discrimination based on multiple grounds. At present, under EU law, multiple discrimination is treated in relation to women in recitals 14 and 3 (respectively) of Directives 2000/43/EC implementing the principle of equal treatment between persons irrespective of race or ethnic origin and 2000/78/EC on the creation of a general framework in favour of equal treatment in employment and occupation. These recitals state: "The Community shall, in accordance with Article 3(2) of the EC Treaty, aim to eliminate inequalities, and to promote equality, between men and women, in particular since women are often the victims of multiple discrimination".

In addition, the European Commission has produced two reports on multiple discrimination, which show that EU anti-discrimination law as it stands cannot effectively combat multiple discrimination because of the fragmentation of legislation according to grounds as well as sectors (employment, goods and services, etc.), which would encourage a one-dimensional approach to discrimination.

5. Secure and adaptable employment.

Proposal 1

Teleworking : European regulations required

It is likely that teleworking will continue to be used more intensively after the corona crisis than before the pandemic. European legislation could therefore be developed, including through the social partners, since teleworking can also have a cross-border character.

This regulation or recommendation(s) could contain the following elements:

- a healthy balance between telework and working in the company with regular physical presence (e.g. several days a week) in the organisation ² ; a coherent and complete set of tasks which can be carried out independently to reduce dependence on others for the performance of the tasks; sufficient planning autonomy where people rather than technology direct the work.
- control of results rather than efforts with clear objectives and a say in how those objectives can be achieved;
- the avoidance or prohibition of certain forms of digital monitoring of work (e.g. through automatic screenshots or the measurement of keyboard activity).
- limiting the use of a comprehensive platform in order to avoid over-dependence on technology³

Equally important is an equal granting of teleworking opportunities with the same career opportunities for teleworkers as those who physically work in the company.

The regulations on working time, catch-up rest, etc., may need to be adapted, including the right to switch off that has to be installed. More attention should be paid to occupational risks and working conditions. In view of the increase in teleworking, regulations on cross-border work and other cross-border aspects will have to be re-examined.

Proposal 2:

Labour law - platform work:

Reflection should continue as to whether existing European legislation is adapted to new forms of work, in particular to the development of the "platform economy". The possibility of new regulatory initiatives should be examined.

² No one benefits from the loss of social contact and support, the organisation nor the workers; it is therefore undesirable for companies to work completely without physical space - on the other hand, it would be understandable for companies to want to save space.

³ Technology should support teleworking, not take over all human coordination and communication.

Proposal 3

Flexibilisation of the labour market.

The European Union could also examine the regulatory possibilities for older workers to change jobs, sectors and status during the last years of their careers, but with due attention for the dangers of pay gaps. Belgium has the practice of employer groups that pool staffing needs which may be useful in this respect

Labour mobility.

Now that the start-up phase of ELA is coming to an end and despite the difficulties caused by corona, it must be ensured that ELA becomes fully operational as soon as possible and can concentrate effectively on its core tasks, including cross-border inspections and exchange of information between inspection services.

If necessary, new legislative initiatives could be developed in the coming years on the basis of the experience gained - such as regulating the competence of inspectors in other countries, binding rules on the provision of information, ePVs (for which inspiration can be drawn from the Belgian system) to support ELA. All labour law sanctions (including administrative fines) should also be enforceable in all EU countries.

6. Wages

The FPS ELSD will continue to support European initiatives to develop a framework guaranteeing a minimum wage for every European worker now that the European social partners leave the regulation to the Council. This minimum wage should be set on a relative basis (taking into account the wage level and standard of living in each country). It should be determined through a transparent procedure that takes account of changes in living standards, inequalities, employment and productivity. The FPS will actively defend and promote these positions during the negotiations under the German Presidency.

8. Social dialogue and involvement of workers.

Proposal 1

FPS ELSD is in favour of developing a European regulatory framework for "international framework agreements", agreements concluded between a multinational and one or more international trade union federations and covering the entire production chain.

Proposal 2

The lack of clarity surrounding the generally binding nature (transposition into a directive) of agreements between the sectoral European social partners must be eliminated. In addition, efforts must continue to strengthen the social dialogue in the countries where it is weak, via the European Semester (country-specific recommendations on social dialogue) and investments in the capacity of the social partners.

10. Healthy, safe and well-adapted work environment and data protection.

Proposal 1

The FPS ELSD wants a "Health and Safety 2021-2026" strategic framework that frames the national strategies and links them to the European and international (ILO) level. The OSH Information System for the exchange of information between Member States should be further developed. With the development of tools and the more active exchange of good practices, Europe can better support prevention policies in (very) small enterprises.

Guaranteeing health and safety for all those working in the EU, regardless of contractual statutes etc., paying due attention to the specific situation of cross-border workers, seasonal workers, posted workers and taking into account the new forms of work, should be the starting point for the European Union. The progressive robotisation, digitisation, the use of A.I., the diversity in the workplace and the green economy can also entail risks, for health and safety which need to be identified and might necessitate an update of the European legislation. The protection of workers against psychosocial risks must also be strengthened.

Proposal 2

By analogy with the rapid recognition of Covid 19 as an occupational disease, the recognition of pandemics as occupational diseases for certain categories of workers needs to be speeded up and the interaction between the REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals) and occupational health and safety regulations needs to be clarified. Particular attention should be paid to the interaction between the EU battery project and the planned restrictions on the use of cobalt.

Proposal 3:

The European policy on protection people in the workplace from carcinogens should be continued and expanded. A directive on musculoskeletal disorders, focusing on ergonomics and biomechanical stress in the workplace, is a priority for the FPS ELSD.

13. Unemployment benefits

Proposal 1

The FPS ELSD welcomes the development of a European unemployment (re)insurance system after the end of SURE. In SURE's successor a balance must be found between respect for national characteristics (organisation and principles of benefit policy, activation policy, etc.) while providing the necessary guarantees that the systems in all Member States are of sufficient quality.

Proposal 2

Finalising the revision of Regulation 883/2004 on the coordination of social security systems remains a priority for the FPS ELSD. Belgium welcomes the modernisation of this regulation, particularly in the fight against social dumping, and prefers a simple and easy to implement reform (for example, in the area of frontier work). However, there is a "red line" regarding the duration of employment in the competent Member State to open the right to aggregate qualifying work periods in other Member States. Belgium is the only country with benefits that are unlimited in time, and therefore wants a minimum period of 3 months of employment in our country, as in the Commission's original proposal which was based on a convincing impact assessment. A solution would be to give the Member States

Proposal 3

The Covid 19 pandemic highlighted several gaps in social protection. For example, convergence should be sought between temporary unemployment and other short time work arrangements with due attention being paid to phasing out but also to cross-border aspects. Workers on temporary contracts, seasonal workers and students should be given the possibility of temporary unemployment.

Finally, a combination of benchmarking, advisory recommendations... should ensure that the systems are ready for the next crisis so that they do not have to be rebuilt from scratch.

Source: e.g. EMCO (loopholes in social legislation identified during the Covid 19 crisis).

20. Access to essential services (water, sanitation, energy, transport, financial services, digital communication)

In their letter of 8 April 2020 to all Member States, Commissioners Schmit, Kyriakides and Dalli called for special attention to be paid to the most vulnerable groups in this time of crisis. The same letter also referred to the Commission's budgetary responses to the crisis. However, after analysing these proposals, it appeared that no additional resources were made available by the Commission to respond to the Commissioners' call for the necessary measures to be taken for the most vulnerable groups.

In tackling the Covid 19 pandemic, the Belgian Inter-Federal Task Force on Vulnerable Groups focused mainly on proposing and implementing measures to support people living in poverty and, in this sense, responded to the Commissioners' call.

With a view to future crises, the Equal Opportunities Unit considers it desirable that good practices can be exchanged between Member States so that faster and more effective action for vulnerable groups can be taken. It would also be advisable for the Commission to release specific additional resources for initiatives concerning vulnerable groups, which can be used in the short term either by governments or by NGOs.

Finally, the FPS ELSD and the Equal Opportunities Unit would like to recall their other priorities at European level in addition to the Pillar:

On ECONOMIC GOVERNANCE and the EUROPEAN SEMESTER:

FPS ELSD calls for a new strategy to succeed Europe 2020, covering at least economic, employment and social policies, with numerical targets, in order to avoid short-term (budgetary) priorities dominating the European Semester.

The equivalent position between the ECOFIN and EPSCO Councils in governance (Semester) should be further strengthened by eliminating overlaps between the follow-up systems (MIP Scoreboard and Social Scoreboard) and making both instruments equivalent.

COMITTEES and STATISTICAL SUBSTANTIATION.

The EPSCO committees play a crucial role in the implementation and follow-up of the European Pillar and European employment and social policy. The diminishing support for committees, councils and working groups working with Member States should be stopped. The Commission needs to reinvest in better support.

There must also be continued investment in the statistical system. For example, the responsiveness of EUROSTAT to new developments should be increased; e.g. by introducing new variables more quickly when needed. Further investment should be made in building up administrative data that are comparable at European level.

The Equal Opportunities Unit (FPS Justice) would like to insist on the importance of involving civil society in the preparation and monitoring of policy and making enough resources available so that civil society can assume its policy preparation and implementation role

Moreover, the Equal Opportunities Unit would like to call on the Commission not only to embrace diversity, but also to be inclusive in all policy initiatives it undertakes, including an inclusive recruitment policy

Furthermore, the Equal Opportunities Unit insists on involving human rights specialists in European decision making on crisis management in response to the Covid-19 crisis, so that the most vulnerable groups in society are taken into account.

Finally, the Commission states that data and artificial intelligence are ingredients for innovation, but that human and ethical implications must be considered. The Equal Opportunities Unit advocates that investment in artificial intelligence should always be accompanied by a risk analysis of possible discriminatory effects that algorithms may entail.
