

SOCIAL DIALOGUE

Social dialogue is a fundamental component of the European social model that has gained full recognition in the Treaty with the Amsterdam reform. Social partners are thus able to contribute actively to designing European social policy.

LEGAL BASIS

Articles 151-156 of the Treaty on the Functioning of the European Union

OBJECTIVES

Under Article 151 TFEU, the promotion of dialogue between management and labour is recognised as a common objective of the EU and the Member States. Social dialogue also improves European governance through the involvement of social partners in decision-making and in the implementation process.

ACHIEVEMENTS

A. Bipartite social dialogue

According to the original wording of Article 140 TEC as it appeared in the Treaty of Rome (Article 118), one of the Commission's tasks in the social field was to promote close cooperation between Member States in regard to the right of association and collective bargaining between employers and workers. It was only after many years, however, that this provision started to be implemented. Set up in 1985 at the initiative of the Commission's President Jacques Delors, the Val Duchesse social dialogue process aimed to involve the social partners, represented by the European Trade Union Confederation (ETUC), the Union of Industries of the European Community (UNICE) and the European Centre of Public Enterprises (CEEP), in the internal market process. A number of joint statements on employment, education and training and other social issues resulted from the meetings of the social partners' representatives. In 1992, the Social Dialogue Committee (SDC) was established as the main forum for bipartite social dialogue at European level; the SDC currently meets 3-4 times a year and comprises 64 members (32 employers, 32 workers) either from European secretariats or national organisations. In the meanwhile, Article 118B was incorporated into the TEC by the Single European Act, creating a legal basis for the development of a 'Community-wide social dialogue': the promotion of such dialogue became one of the Commission's official tasks and collective agreements at Community level were made possible. In October 1991, UNICE, ETUC and CEEP adopted a joint agreement which called for mandatory consultation of the social partners on the preparation of legislation in the area of social affairs and a possibility for the social partners to negotiate framework agreements at Community level. This request was acknowledged in the Agreement annexed to the Maastricht Protocol on Social Policy, which was signed by all Member States with the exception of the United Kingdom. At national level, the social partners were thereby given the opportunity of implementing directives by way of collective agreement.

At EU level, the Commission must consult the social partners before taking any action in the social policy field. In such occasions, the social partners may express their willingness to negotiate among themselves an agreement on the subject of the consultation and stop the Commission's initiative. The negotiation process may take up to nine months and the social partners have the following possibilities:

- they may conclude an agreement and jointly request the Commission to propose that the Council adopt a decision on implementation, or
- having concluded an agreement between themselves, they may prefer to implement it in accordance with the procedures and practices specific to the social partners and to the Member States (these agreements have been defined as 'voluntary' or, later on, 'autonomous' agreements), or
- they may be unable to reach an agreement.

In the last case, the Commission will resume work on the proposal in question.

The incorporation of the Agreement on Social Policy into the EC Treaty (Articles 137-145) following the Treaty of Amsterdam finally allowed for a unique framework to apply to social dialogue within the EU. Cross-industry results of this process were the adoption of framework agreements on parental leave (1995), on part-time working (1997) and on fixed-term work (1999), which were implemented by Council directives:

- Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC, and Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC;
- Council Directive 97/81/EC of 15 December 1997 concerning the framework agreement on part-time work concluded by UNICE, CEEP and the ETUC;
- Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP.

Negotiations between the social partners on a framework agreement on temporary agency work ended in failure in May 2001. Thus, in March 2002 the Commission adopted a proposal for a directive based on the consensus which had emerged among the social partners. Similarly, after the social partners had expressed their unwillingness to engage in negotiations, in 2004 the European Commission put forward a proposal on the revision of Directive 2003/88/EC concerning certain aspects of the organisation of working time, which was however unsuccessful; consultations with the social partners started again in March 2010.

From 1998, following a Commission decision to establish specific bodies (Commission decision 98/500/EC of 20 May 1998), sectoral social dialogue was also strongly developed. Several committees were created in the main economic fields and they produced valuable results. Sectoral social dialogue produced three European agreements on the organisation of working time for seafarers (1998), on the organisation of working time of mobile workers in civil aviation (2000) and on certain aspects of the working conditions of mobile workers assigned to interoperable cross-border services in the railway sector (2005). These agreements were implemented by Council decision. The 'Agreement on workers' health protection through the good handling and use of crystalline silica and products containing it', signed in April 2006 was the first multi-sector outcome of the European social partners' negotiations.

The agreement on telework concluded in May 2002 was implemented for the first time in accordance with the procedures and practices specific to the social partners and the Member States. 'Autonomous agreements' were also concluded by the social partners on work-related stress and on the European licence for drivers carrying out a cross-border interoperability service in 2004, as well as on harassment and violence at work (April 2007) and on inclusive labour markets (March 2010).

In May 2008, employers' and workers' representatives from the maritime shipping industry signed an agreement on labour standards in the sector, which aims to apply certain provisions of the International Labour Organisation's 2006 Maritime Labour Convention and, upon request, the European Commission proposed in July 2008 that the Council adopt a Directive for the implementation of the agreement.

After calling for years on the Commission to propose a revision of Directive 2000/54/EC on the protection of workers from risks related to exposure to biological agents at work with a view to protecting health workers from blood-borne infections due to needle-stick injuries, together with the EP, social partners eventually decided to start negotiations and the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector was signed on 17 July 2009 by HOSPEEM (European Hospital and Healthcare Employers' Association) and EPSU (European Federation of Public Services Unions); the Council Directive implementing it was adopted on 8 March 2010.

Following the changes introduced by the Treaty of Amsterdam, the consultation process has become even more important, since it covers all the fields now falling under Article 151 TFEU.

With the entry into force of the Lisbon Treaty, a new article (Article 152 TFEU) has been inserted between ex Articles 137 TEC (151 TFEU) and 138 TEC (153 TFEU), stating that 'The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.' Article 153 TFEU also gives the Member States the possibility to entrust the social partners with the implementation of a Council decision adopted on ratification of a collective agreement signed at European level.

B. Tripartite social dialogue

From the very start of the European integration process, it was considered important to involve economic and social stakeholders in drawing up Community legislation. The Consultative Committee for Coal and Steel and the European Economic and Social Committee bear witness to this. Since the 1960s a number of advisory committees have existed whose role is to support the European Commission on the formulation of specific policies. In general, these committees, such as the Committee on Social Security for Migrant Workers, the Committee on the European Social Fund and the Committee on Equal Opportunities for Women and Men, are made up of representatives of national employers' and trade unions' organisations, as well as representatives of the Member States. From 1970 the key tripartite social dialogue forum at European level was the Standing Committee on Employment, composed of 20 representatives of the social partners, equally divided between trade unions and employers' organisations. Reformed in 1999, the Committee was fully integrated into the coordinated European employment strategy. On the basis of a joint contribution of the social partners to the Laeken Summit in December 2001, the Council launched a Tripartite Social Summit for Growth and Employment in March 2003 (2003/174/EC). The Tripartite Social Summit has replaced the Committee on Employment and facilitates ongoing consultation between the Council, the Commission and the social partners on economic, social and employment questions. It meets at least once a year and one of its meetings must be obligatorily held before the Spring European Council.

Formalising a process that had been developing since 1997, the Summit now officially consists of the current EU Council Presidency and the two subsequent Presidencies, the European Commission and the social partners. The three Council presidencies are normally represented by the Heads of Government or State and the Ministers in charge of employment and social affairs; equally, the European Commission has two representatives, who are usually its President and the member responsible for employment and social affairs. The social partners' members are divided into two delegations of equal size: comprising 10 workers' representatives and 10 employers' representatives, with special attention to be paid to the need to ensure a balanced participation

between men and women. Each group shall consist of delegates of European cross-industry organisations either representing general interests or more specific interests of supervisory and managerial staff and small and medium-sized businesses at European level. Technical coordination is provided for the workers' delegation by ETUC and for the employers' delegation by UNICE. Following the ratification of the Lisbon Treaty, the role of the Tripartite Social Summit for Growth and Employment is now acknowledged in the TFEU under the Article 152.

ROLE OF THE EUROPEAN PARLIAMENT

The EP has taken the view that social dialogue is an essential element in the traditions of the Member States and has called for a greater role for 'trialogue' at European level. It has always supported the development of the social dialogue and the Committee on Employment and Social Affairs has extended frequent invitations to the social partners at EU level to present their views before a report or opinion on any relevant issues is delivered. It has also often reminded the Commission of the need for a coherent industrial policy at European level, in which the social partners should play a key role. It must be recalled that the Lisbon Treaty has introduced a clear right for the EP to be informed on the implementation of collective agreements concluded at Union level (Article 155 TFEU) and on the initiatives taken by the Commission to encourage cooperation between the Member States under Article 156 TFEU, including matters relating to the right of association and collective bargaining between employers and workers.

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