

EUROPEAN PARLIAMENT

2004



2009

Session document

27.8.2008

B6-0379/2008

MOTION FOR A RESOLUTION

to wind up the debate on statements by the Council and Commission

pursuant to Rule 103(2) of the Rules of Procedure

by Francis Wurtz, Gabriele Zimmer, Dimitrios Papadimoulis, Eva-Britt Svensson, Roberto Musacchio and Umberto Guidoni

on behalf of the GUE/NGL Group

on the Social Package

European Parliament resolution on the Social Package

The European Parliament,

- having regard to the Commission communication on the 'Renewed social agenda: Opportunities, access and solidarity in 21st century Europe' (COM (2008) 412) and the numerous non-legislative documents accompanying that communication,
- having regard to the Commission proposal for a directive of the European Parliament and of the Council on the application of patients' rights in cross-border healthcare (COM (2008) 414),
- having regard to the Commission proposal for a European Parliament and Council directive on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (recast) (COM(2008) 419),
- having regard to its resolution of 4 September 2001 on the Commission report on the application of the Directive on the establishment of a European works council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees,
- having regard to the Commission proposal for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008) 426),
- having regard to the political agreement of the Employment and Social Affairs Council on the revision of the Working Time Directive and on the Temporary Workers Directive of 9 June 2008,
- having regard to the judgments of the Court of Justice of the European Communities on the Viking Line, Laval, Rüffert and Commission v Luxembourg cases and the controversial political debate thereon,
- having regard to the following ILO conventions: ILO-94 Labour Clauses (Public Contracts); ILO-87 Freedom of Association and Protection of the Right to Organise; ILO-98 Right to Organise and Collective Bargaining; ILO-117 Basic Aims and Standards of Social Policy, especially Part IV thereof; ILO-154 Collective Bargaining; ILO-MLC Maritime Labour Convention; having regard also to the ILO's Decent Work Agenda,
- having regard to the Integrated Guidelines on Growth and Jobs 2008-2010 and to the EU Strategy on Social Inclusion and Social Protection,
- having regard to Rule 103(2) of its Rules of Procedure,

A. whereas in Parliament's current term, the Commission and the Council have so far been

very reluctant to propose and adopt any social policy legislation aimed at social progress in the European Union,

- B. whereas employment and social policies for social progress are not amongst the four official priorities of the current French Presidency of the European Union; and whereas claims by that Presidency that it will make 2008 'the year to restart Social Europe' do not therefore sound very credible,
- C. whereas the political agreement of the Employment and Social Affairs Council of 9 June 2008 on the revision of the Working Time Directive is aimed at a further deregulation of the already weak minimum standards for protecting workers' health and safety against irregular and long working hours; whereas the French Government's current moves to drop national legislation on the 35-hour working week and similar campaigns in other Member States for longer working hours go in the same direction of social regression,
- D. whereas the recent judgments of the European Court of Justice on the cases Viking Line, Laval, Rüffert and Luxembourg restricted the right to strike and to collective bargaining by claiming the supremacy of internal market freedoms over such fundamental social rights; whereas these judgments interpreted the minimum social protection standards contained in the Directive on the Posting of Workers as maximum standards, thus favouring downward wage competition at the same workplace and denying Member States the right to lay down more favourable working conditions and remuneration for posted workers under national law,
- E. whereas these developments strongly contributed to the widespread public perception that the EU is leaning too far towards free markets and competition and is abandoning solidarity and social progress; whereas this deepening crisis of legitimacy of the European Union has led to a growing distance between a market-driven European project supported by its elites and the scepticism among many European citizens about the 'value added' of European policies for their daily lives and social wellbeing, as again recently expressed by the Irish 'No' to the Lisbon Treaty,
- F. whereas, against this background, the 'Renewed Social Agenda' presented by the Commission must be interpreted as an attempt to calm down the anger and dissatisfaction of large swathes of the population with the current neo-liberal trajectory of the European integration project; whereas, however, the so called 'Social Package' mainly consists of non-legislative communications, reports and recommendations, whose effect in terms of promoting measurable social progress throughout the European Union is doubtful,
 - 1. Considers that the 'Social Package' is an ill-designed attempt to distract public attention from socially regressive policy stances taken by the Commission and the Council, such as the planned deregulation of the Working Time Directive and the devastating effects of the recent judgments of the European Court of Justice on fundamental rights and collective bargaining;
 - 2. Points out that Parliament called for a phasing out of the opt-out in its first reading on the revision of the Working Time Directive; strongly criticises the fact that the Council's political agreement rejected that demand; states its opposition, therefore, to the Council agreement;

3. Insists that any socially meaningful revision of the Working Time Directive must focus on the reconciliation of work and non-work life by means of shorter maximum daily and weekly working hours; underlines that the opt-out must be completely abolished, that the ECJ case law on time spent on call and compensatory rest periods must be fully implemented and integrated into the directive, and that any lowering of the level of protection granted by the existing directive must be blocked;
4. Calls on the Council and the Member States to thoroughly discuss the issues raised by the recent Court rulings; strongly urges the Council to take action to ensure the primacy of social rights over the freedoms of the internal market; requests a profound revision of the Treaties, therefore, in order to open the way to a Social Europe; considers that, if the European institutions fail to deliver on this, the serious crisis of legitimacy of the current European economic and social model will deepen dramatically;
5. Notes the Commission's first biennial report on the situation of social services of general interest in the EU; insists that the issue of services of general interest is another important point as regards the revision of the Treaties; in this connection, emphasises the need for clear provisions in EU primary law to ensure that public goods, public services, services of general interest and the non-profit sector are not subject to the rules on competition, state aid, public procurement and the internal market, but form a sector which is guided solely by the public interest and which is organised according to the principle of subsidiarity within the sole competency of the Member States and their respective regional and local authorities to ensure their proper functioning;
6. Calls on the Council to stop the ratification of the Lisbon Treaty, which has already been rejected by the Irish referendum, and, as a first step towards remedying the situation, to introduce a 'Social Progress Clause' as a binding Protocol to the Treaty with the aim of clarifying:
 - that the Treaty may not be interpreted as affecting in any way the exercise of fundamental rights as recognised in Member States, including the right to strike and collective action at national level and also to cross-border strikes and collective action;
 - that these rights also include the right or freedom to take other actions covered by specific industrial relations systems in Member States, including actions aimed at initiating the conclusion of collective agreements going beyond minimum wages and minimum standards;
 - that the Treaty may not be interpreted as affecting in any way the industrial relations and collective bargaining systems as recognised in Member States;
 - that the Treaty may not be interpreted as affecting in any way the competencies of Member States to adopt social policy legislation that provides for higher standards and requirements than those laid down in EU directives stipulating minimum standards;
 - that, wherever these rights as cited above and Member States' social policy competencies or industrial relations systems clash with internal market regulation or the 'fundamental freedoms' of the internal market, the former (fundamental rights, etc.) must prevail over the latter;
7. Points out that the legislative projects contained in the 'Social Package' are either aimed at deepening the liberalisation of the internal market, as in the case of the proposed directive on 'the application of patients' rights in cross-border healthcare', which is based on the old

Bolkestein proposals on healthcare in the framework of the Services Directive, or lack ambition in terms of promoting social progress, as in the case of the proposal on the revision of the European Works Council Directive; considers, therefore, that they are not adequate tools for 'restarting Social Europe', as the French Presidency claims;

8. Points out that health services have been excluded from the Directive on Services in the Internal Market for good reasons, as health care is part of social security systems and not a market affair; stresses that there is no need, nor any EU competency, to regulate on health care on the basis of internal market rules; insists that the issues addressed by the Commission proposal for a directive must be solved and regulated within the coordination of social security schemes (Regulation 883/2004);
9. Strongly criticises the Commission proposal for a directive on the application of patients' rights in cross-border healthcare; points out that this proposal is based on an internal-market approach and is mainly aimed at enabling wealthier and better educated people to go shopping for cheaper healthcare abroad; highlights that the proposal is undermining equality in healthcare systems, as the reimbursement for patients from poorer Member States will not allow them to cover treatment costs for high-quality health care in richer Member States;
10. Strongly criticises the fact that the Commission proposal for the revision of the Directive on European Works Councils (EWC) lacks ambition; reminds the Commission of Parliament's demands regarding the revision of that directive already stated seven years ago in its resolution of 4 September 2001, which have not been taken on board;
11. Emphasises the core requirements as regards the revision of the EWC Directive: an improved definition of 'information' and 'consultation' (written and detailed information provided in due time) and of transnational matters; the lowering of thresholds for establishing EWCs; recognition of the role played by and the rights of trade unions; improved working conditions for EWCs; effective, proportionate and dissuasive penalties for companies flouting the provisions of the directive; and establishing a right of EWCs to veto management plans for restructuring, mergers and take-overs or layoffs, postponing any final decisions until the EWC has been able to propose alternative solutions and these have been consulted in detail between the EWC and management;
12. Welcomes the fact that the Commission is proposing a horizontal Directive on anti-discrimination outside employment; strongly criticises the fact that insurance and other financial products are not to be covered by the directive, allowing the financial and insurance industry to continue with discriminatory practices demanding higher contributions because of risks related to health, age, gender and disability;
13. Notes the Commission's aim to improve the visibility and working methods of the EU Strategy on Social Inclusion and Social Protection and to strengthen its interaction with other policies; points out, however, that the Commission and the Council rejected the Parliament's calls for a new guideline on social inclusion to be introduced into the Employment Guidelines 2008-2010, thus failing to improve such visibility and interaction with other policies;
14. Supports the Commission's proposal to set targets on the reduction of poverty (poverty in

general, child poverty, in-work poverty and persistent long-term poverty), on a minimum level of income provided through pensions and on access to and the quality of health care (reducing infant mortality, enhancing health status and life expectancy, etc.) for the next phase of the EU Strategy on Social Inclusion and Social Protection; insists that such targets must also be set as regards minimum income schemes (60 per cent of the national median equalised income) and minimum wages (60 per cent of the national or sector specific average wage) in order to combat poverty and promote social inclusion;

15. Supports the Commission's aim to promote the concept of decent work in the EU's internal and external policies; points out that one important pillar of the concept of decent work is the notion of 'freely chosen employment', which must be guaranteed; insists, therefore, that Member States revise labour market policies which force unemployed people into low paid, precarious employment not freely chosen by them or to work for their welfare benefits (workfare programmes);
16. Supports the Commission's proposal to incorporate international maritime working standards (ILO MLC of 2006) into European labour law, based on the European agreement between employers and trade unions in that sector; also supports the Commission's move on priority implementation of ILO conventions; underlines, however, that the ECJ ruling in the Ruffert case contradicts ILO Convention 94, which explicitly requires compliance with collective agreements in public procurement regulations; calls on the Council and the Commission to put ILO Convention 94 on the list for priority implementation;
17. Agrees with the Commission that more action is needed to reduce and eradicate the gender pay gap in the European Union; calls on the Commission and the Council to further strengthen the legal framework, to set a target for reducing the gender pay gap also with regard to access to vocational training and recognition of women's qualifications and skills, and to the part time gender pay gap and gender pension gap, and to promote equality clauses in public contracts;
18. Notes the Commission's report on Community instruments and policies for Roma inclusion; underlines the need for firm action for Roma inclusion (Roma Action Plan) as requested by Parliament's resolutions on this topic;
19. Points out that any meaningful 'Social Package' promoting social progress must be complemented by supportive economic and structural policy measures; considers that the monetary policy of the ECB must be relaxed in order to counter the effects of the current economic slowdown in Europe; calls on the Commission and the Council to draw up a 'European Investment Programme for Sustainable Development, Employment and Social Inclusion' of at least 1 % of EU GDP, which should be complemented by similar public investment programmes of the Member States in order to stabilise the economy and counter climate change; proposes that Member States also introduce measures to stabilise and enhance the purchasing power of low-income people (rising prices for food, energy, transport), e.g. by introducing social default tariffs for gas, electricity, telecommunication, public transport etc.;
20. Highlights the fact that the European Union's current Lisbon Strategy will reach its end in 2010; considers that a thorough reflection must start now on a future strategy after 2010;

emphasises that the current focus on market liberalisation and 'competitiveness' must be abandoned and replaced by a new integrated European Strategy for Solidarity and Sustainable Development that is based on four pillars of equal weighting (economy, environment, employment, social protection and social inclusion);

21. Instructs its President to forward this resolution to the Council, the Commission, and the parliaments of the Member States;