

Global Forum News

LAST CHANCE FOR SOCIAL EUROPE?

REVISED & UPDATED

New Social Pillar Proposals Unveiled

There are many reasons for an EU Pillar of Social Rights, but it is perhaps best summarised by the dispute currently simmering between Member States. The Pillar of Social Rights has been a flagship project of the Juncker Commission, and almost a year in the making. It was launched in Brussels on April 26, last. The documentation released by the Commission on the Pillar runs to 300 pages. This bulletin attempts to provide a brief guide to the key points of the Pillar.

What is Contained in the Pillar?

There are three chapters in the EU Social Pillar:

- 1) *Equal Opportunities & Access to the Labour Market,*
- 2) *Fair Working Conditions,*
- 3) *Social Protection & Inclusion.*

These chapters contain 20 principles that will be brought into operation by way of:

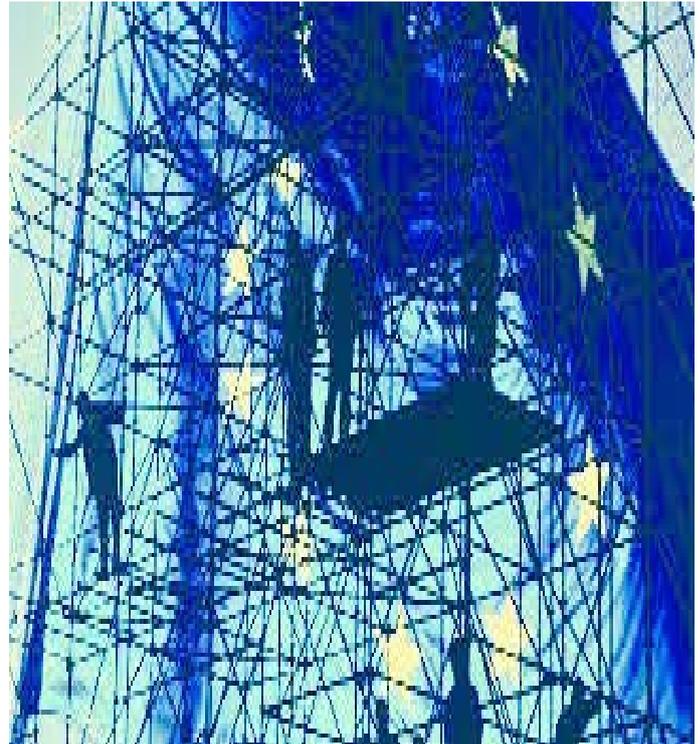
- I. *An interpretive document of the working time directive,*
- II. *One draft directive*
- III. *Two social partner consultations and*
- IV. *A declaration.*

The Pillar is described by its advocates as a compass - or an orientation - which will guide European Social Policy in the future. It attempts to restate the value of social Europe articulated by the Delors presidency of the 1990s. Time will tell whether this is the case. The declaration and the staff working document are identical.

The Pillar was presented under two legal forms: as a Commission Recommendation, effective immediately, and as a Proposal for a joint proclamation by the Parliament, the Council and the Commission. The Commission will enter into discussions with the Parliament and the Council to work towards broad political support and high-level endorsement of the Pillar. These legal forms take account of the absence of union powers to adopt binding legislation in certain areas covered by the Pillar.

The use of a joint proclamation is modelled upon the precedent of the Charter of Fundamental Rights. The text which is proposed is identical to the recommendation mentioned above, but it could be amended in light of the discussion with the Council and the Parliament.

Any attempt by a future Commission to transform the declaration into hard law would probably require treaty change. The document notes that "the implementation of the pillar will be primarily a matter for national governments, for public authorities and for social partners at all levels."



The Commission has also produced a 78 page interpretive document of ECJ decisions on the Working Time Directive. It is uncertain as to what status this document has as the Court interprets its own decisions. It is too early to analyse this document.

The two issues which are being opened for social partner consultation are social protection systems and the revision of the written statement directive.

According to the Commission "*the Pillar is designed as a compass for a renewed process of upward convergence towards better working and living conditions in Europe. It is primarily conceived for the euro area but applicable to all EU Member States wishing to be part of it.*"

The initial implementation proposals involve:

One proposed directive – on parental leave - and two social partner consultations on issues broadly related to so-called 'platform work' and a growing variety of non-standard contracts.

A revision of the Written Statement Directive (91/533/EEC) is proposed.

This directive gives employees starting a new job the right to be

notified in writing of the essential aspects of their employment relationship. The other consultation is on access to social protection, to define possible new rules in this area.

The proposal on parental leave includes a new right for fathers to take at least 10 working days around the birth of a child. It also envisages that the existing right to four months' leave can be taken for children up to 12 years of age, compared to just a non-binding guideline on the age of 8 years today.



Parental leave also becomes an individual right for mothers and fathers without a transfer of the four months to the other parent, a strong incentive for take up by fathers. For the first time, carer's leave of five days per year will be introduced, in the case of sickness of a direct relative.

All of these family related leave arrangements will be compensated at least at the level of sick pay.

The proposal will also give parents of children up to 12 years old and carers the right to request flexible working arrangements, like reduced or flexible working hours or flexibility on the place of work. At the moment this only applies to women returning from maternity leave.

Reaction from Unions & EU Bodies

The European Trade Union Confederation (ETUC)

In an initial response the ETUC stated that the Pillar of Social Rights allowed the EU to show that it cares about its citizens. It welcomed the fact that the pillar is open to the whole EU and not just the Eurozone. The statement continued: "The Pillar includes proposals which are long overdue.

"The principles are largely positive, with some exception, but we expect the Commission to go further and start a real process for upward convergence."

The ETUC backed draft legislation for paid parental, paternity and carers' leave and welcomed the Commission's commitment to stand by its intention to deliver despite the opposition of some employers.

While highly sceptical of the promotion of self-employment as a panacea for unemployment, the ETUC supported proposals for standards to cover self-employed and non-standard workers, and undertook to engage constructively in the consultation on the revision of the Written Statement Directive and Access to Social Protection for All.

The ETUC also appreciated that the Commission is considering the need for better enforcement of existing European social legislation and rights.

The ETUC expressed concern about the proposed interpretive document on the Working Time Directive, which could lead to wrong implementation of some Court cases. The ETUC undertook "to mobilise against those who want to strangle this initiative at birth."

The European Public Service Union (EPSU)

With respect to public services and public service workers, the EPSU stated that the Pillar proposals represented a small step in the right direction, welcoming the plans for more and paid parental, paternity and care leave. However, the EPSU considered that the proposals did not meet fully workers' expectations with no measures to strengthen collective bargaining. EPSU expressed disappointment that the Commission did not come with more concrete proposals to deal with the increase in low paid and precarious jobs.

The EPSU noted that "many Member States and employers are already seeking to block these small steps forward. They are kicking and screaming to prevent any substantial improvements in working conditions of EU workers. EPSU will continue to work with the ETUC to fight these attempts to halt change. We are determined to seek improvements and more concrete action and initiatives."

UNI EUROPA

Uni Europa sees the glass as being half empty, condemning the Commission for failing to propose concrete solutions to the real problems faced by workers, noting that it "has published a complicated maze of seventeen documents that, with the exception of the promise to legislate on Parental Leave, does not amount to anything like the type of solutions needed." The statement continued that the pillar "must include a real and comprehensive EU social action programme."

Workers' Group of the European Economic & Social Committee (EESC)

The Committee stated that there was "an urgent need to close the social deficit by correcting the imbalance in social and economic policy and repairing the damage done to Social Europe after so many years of austerity."

The group undertook to analyse the Commission's proposals, to assess how these measure up to civil society's expectations and to the objectives set out in the EESC position on the Rights. The group stressed that the EU needed to provide a positive project for workers, which also addresses the challenges of the 21st century.

The Workers' Group called for fair working conditions for all, a framework directive for minimum income, social security protection for all, respect for collective bargaining and trade union rights, and a common EU approach to minimum wages. The group warned that if the EU failed to deliver, we will have to live with the consequences: increased nationalism, protectionism and xenophobia.

IndustriALL

IndustriALL stated that "although it contained many principles but only contains one tangible legislative proposal on paid parental, paternity and carers' leave... the European Pillar of Social Rights still needs to deliver its promises if Europe is to get a 'Triple-A' rating on social issues. IndustriAll Europe will undertake a detailed analysis of the package."

The Key Proposals

What followings are the key proposals from the Commission that are contained under each of the three chapters, along with the implementation proposals for each measure. This provides a greater sense of the scope and extent of what is envisaged in the Social Pillar.

Non tangible implementation proposals - such as communications from the Commission or Action Plans - are excluded below. Also excluded are general proposals that the social partners conclude agreements on, with a view to having them transposed into directives.

Chapter One: Equal Opportunities & Access to the Labour Market

Education, Training & Lifelong Learning

“Everyone has the right to quality and inclusive education training and lifelong learning, in order to acquire and maintain skills that enable them to participate fully in society and manage successfully transitions in the labour market.”

Implementation Member States have responsibility in this area and are “invited to give effect to the provisions of the pillar... social partners may exchange good practice.”

Gender Equality

“A) Equality of treatment and opportunities between women and men must be ensured and fostered in all areas, including participation in the labour market terms and conditions of employment and career progression.

“B) Women and men have the right to equal pay for work of equal value.”

Implementation Member States transpose and enforce union directives and are invited to go beyond the levels set out in the directives. The Commission will propose a directive on parental leave (*This is the only legislation proposed as part of the Pillar*).

Equal Opportunity

“Regardless of gender racial or ethnic origin, religion or belief, disability, age or sexual orientation everyone has the right to equal treatment and opportunities regarding employment social protection and access to goods and services available to the public. Equal opportunities of under represented groups shall be fostered.”

Implementation Member States transpose and enforce union directives and they are invited to go beyond the levels set out in the directives. Social partners may exchange good practice. The Commission will continue to press forward with the proposed equal treatment directive which will extend the grounds of equality claims.

Active Support to Employment

“A) Everyone has the right to timely and tailor made assistance to improve employment or self-employment prospects. This includes the right to receive support for job search training and requalification. Everyone has the right to transfer social protection and training entitlements during professional transitions.

“B) Young people have the right to continued education, apprenticeship traineeship or a job offer of good standing within four months of becoming unemployed or leaving education.

“C) People unemployed have the right to personalised continuous and consistent support. The long term unemployed have the right to an in depth individual assessment at the latest at 18 months of unemployment.”

Implementation Member States are responsible for implementing employment guidelines agreed at union level. They are invited to update and extend their practices. The Commission proposes an additional €2bn towards the implementation of the Youth Guarantee (this initiative has been the subject of a critical audit from the Court of Auditors).

The Commission will also open a first stage consultation with the social partners on the an initiative to address the varying levels of access to social protection by people in on non-standard contracts and various forms of self-employment.

Chapter Two: Fair Working Conditions

Secure & Adaptable Employment

“A) Regardless of the type and duration of the employment relationship, workers have the right to fair and equal treatment regarding working conditions, access to social protection and training. The transition towards open ended forms of employment shall be fostered.

“B) In accordance with legislation and collective agreements the necessary flexibility for employers to adapt swiftly to changes in the economic context shall be ensured.

“C) Innovative forms of work that ensure quality work conditions shall be fostered. Entrepreneurship and self-employment shall be encouraged. Occupational mobility shall be facilitated.

“D) Employment relationships that lead to precarious working conditions shall be prevented, including by prohibiting abuse of atypical contracts. Any probationary period shall be of reasonable duration.”

Implementation Each Member State may define the balance between security and flexibility on its labour market differently. Member states are nevertheless invited to ensure that their employment and social rules are adapted to the emergence of new forms of work.

In addition the Commission is launching a first stage consultation with the social partners on the written statement directive with a view to establishing minimum standards applicable to every employment relationship and prohibiting abuse. **Note** The ETUC expressed reservations about the extent of the flexibility proposed as well as the concept of promoting self-employment as a panacea to the problem of unemployment.

Wages

“A) Workers have the right to fair wages which provide for a decent standard of living.

“B) Adequate minimum wages shall be ensured in a way that provides for the satisfaction of the needs of the worker and his/ her family in the light of national economic and social conditions whilst safeguarding access to employment and incentives to seek work. In work poverty shall be prevented.

“C) All wages shall be set in a transparent and predictable way according to national practices and respecting the autonomy of the social partners.”

Implementation Member States transpose and enforce directives and they are invited to give effect to the provisions of the pillar through transparent minimum wage setting mechanisms and effective collective bargaining at national sector and firm level, and by taking complementary measures against 'in work poverty.' Member states may ratify ILO conventions 131 and 154. Minimum wages and related matters are dealt with through country specific recommendations.

Information about Employment Conditions & Protection in Case of Dismissal

"A) Workers have the right to be informed in writing at the start of employment about their rights and obligations resulting from the employment relationship, including on probation period.

"B) Prior to any dismissal workers have the right to be informed of the reasons and be granted a reasonable period of notice. They have the right to access to effective and impartial dispute resolution and in case of unjustified dismissal a right to redress including adequate compensation."

Implementation Member States transpose and enforce union directives, and they are invited to go beyond the levels set out in the directives. Member states that have not done so are invited to ratify ILO conventions 122, 135, 144 and 154. The revision of the Written Statement directive is mentioned for a second time.

Social Dialogue & Involvement of Workers

"A) The social partners shall be consulted on the design and implementation of economic employment and social policies according to national practices. They shall be encouraged to negotiate and conclude collective agreements in matters relevant to them, while respecting their autonomy and the right of collective action. Where appropriate, agreements concluded between the social partners shall be implemented at the level of the European Union and its member states.



"B) Workers or their representatives have the right to be consulted in good time on matters relevant to them, in particular on the transfer restructuring and merger of undertakings and on collective redundancies.

"C) Support for increased capacity of social partners to promote social dialogue shall be encouraged."

Implementation Nothing of substance proposed.

Work Life Balance

Parents and people with caring responsibilities have the right to suitable leave, flexible working arrangements and access to care services. Women and men shall have equal access to equal leaves of absence in order to fulfil their caring responsibilities and be encouraged to use them in a balanced way.

Implementation Member States transpose and enforce union directives and they are invited to go beyond the levels set out in the directives social partners may exchange good practice. The proposed directive on Parental Leave gets another mention.

Healthy, Safe, Well-Adapted Work Environment & Data Protection

"A) Workers have the right to a high level of protection of their health and safety at work.

"B) Workers have the right to a working environment adapted to their professional needs and which enables them to prolong their activity in the labour market.

"C) Workers have the right to have their personal data protected in the employment context."

Implementation Member States transpose and enforce union directives and are invited to go beyond the levels set out in the directives. Social partners may exchange good practice. The Commission will press forward on the carcinogens and mutagens directive. A peer review process will be launched on reducing the administrative burden in national legislation while maintaining worker protection.

Chapter 3: Social Protection & Inclusion

Childcare & Support to Children

"A) Children have the right to affordable early childhood education and care of good quality.

"B) Children have the right to protection from poverty. Children from disadvantaged backgrounds have the right to specific measures to enhance equal opportunities."

Implementation Member States are responsible for education systems, and they are invited to give effect to the pillar in this context. Social partners may exchange good practice. Proposed Parental Leave directive is mentioned yet again.

Social Protection

"Regardless of the type and duration of their employment relationship workers - and under comparable conditions - the self-employed have the right to adequate social protection."

Implementation Member states are invited to adapt their rules to give effect to the pillar (i.e. extension of social insurance to the self-employed) and to ratify the relevant ILO conventions.

Unemployment Benefit

"The unemployed have the right to adequate activation support from public employment services to (re) integrate in the labour market and adequate unemployment benefits of reasonable duration, in line with their contributions and national eligibility rules. Such benefits shall not constitute a disincentive for a quick return to employment."

Implementation Member States have responsibility in this area and are "invited update their rules regarding the provisions of cash benefits...social partners may exchange good practice."

Minimum income

"Everyone lacking sufficient resources has the right to adequate minimum benefits ensuring a life in dignity at all stages of life, and effective access to enabling goods and services. For those who can work, minimum income benefits should be combined with incentives to (re) enter the labour market."

Implementation Member States have responsibility in this area

and are “invited to update their rules regarding the provisions of minimum income benefits benefits...social partners may exchange good practice”

Old Age Income & Pensions

“A) Workers and the self-employed in retirement have the right to a pension commensurate to their contributions and ensuring an adequate income. Women and men shall have equal opportunities to acquire pension rights.

“B) Everyone in old age has the right to resources that ensure living in dignity.”

Implementation Member States have responsibility in this area and are “invited to update their rules regarding the provisions of pension benefits benefits...social partners may exchange good practice.” Consultation on access to social protection mentioned again.

Healthcare

“Everyone has the right to timely access to affordable preventive and curative care of good quality.”

Implementation Member States have responsibility in this area and are “invited adapt their rules regarding the organisation of and access to healthcare...social partners may exchange good practice.”

Inclusion of People with Disabilities

“People with disabilities have the right to income support that ensures living in dignity, services that enable them to participate in the labour market and in society and a work environment adapted to their needs.”

Implementation Member States are responsible for the transposition and enforcement of rules adopted at Union level. Those Member States which have ratified the UNCRPD are responsible for its full implementation in matters falling under their competence.

The Union measures referred to contain minimum standards and Member States are invited to go beyond these rules in order to give effect to the Principle, including taking positive action to ensure inclusion of people with disabilities on an equal basis with others. Member States should closely consult with and actively involve persons with disabilities.

Housing & Assistance for the Homeless

“A) Access to social housing or housing assistance of good quality shall be provided for those in need.

“B) Vulnerable people have the right to appropriate assistance and protection against forced eviction.

“C) Adequate shelter and services shall be provided to the homeless in order to promote their social inclusion.”

Implementation Member States are invited to adopt measures, in particular, national, regional or local housing, cash and in-kind, to support universal and rapid access to shelter for people in all kinds of emergency situations as well as to enhance the coverage and the capacity of enabling social services in order to give effect to the Principle.

Links to relevant and supporting documentation can be found in Appendix One (across).



Appendix One

Firstly, there are the documents relating directly to the European Pillar of Social Rights itself.

The Communication on an EPSR, providing the context and rationale for the Pillar of Rights (10 pages):

https://ec.europa.eu/commission/publications/commission-communication-european-pillar-social-rights_en

Commission Recommendation on establishing the EPSR, outlines the 20 principles of consultation documents, many have been strengthened as rights (9 pages):

https://ec.europa.eu/commission/publications/commission-communication-european-pillar-social-rights_en

Draft Joint Proclamation to be same text as item 2, but to be adopted by the Commission, Parliament and Member States by end of the year. This will replace item 2 above:

https://ec.europa.eu/commission/publications/draft-joint-proclamation-european-parliament-council-and-commission_en

Staff Working Document, explanatory files on each principle, with some legal context building (78 pages). This contains the details of the Pillar in each area:

<http://ec.europa.eu/social/BlobServlet?docId=17606&langId=en>

Summary Report on the Consultation (53 pages):

<http://ec.europa.eu/social/BlobServlet?docId=17608&langId=en>

Secondly, there are the documents relating to the Social Scoreboard tool:

Staff working document on Scoreboard Methodology:

<http://ec.europa.eu/social/BlobServlet?docId=17607&langId=en>

Followed by documents relating to specific proposals:

Work/life Balance for Parents & Carers:

Communication on work/life balance initiative (16 pages)

<http://ec.europa.eu/social/BlobServlet?docId=17604&langId=en>

Proposal for a Directive (29 pages)

<http://ec.europa.eu/social/BlobServlet?docId=17605&langId=en>

Annex to proposal to show changes (3 pages)

<http://ec.europa.eu/social/BlobServlet?docId=17620&langId=en>

Accompanying statement by the Commission (2 pages)

<http://ec.europa.eu/social/BlobServlet?docId=17644&langId=en>

Work/life Balance fact sheet (2 pages)

<http://ec.europa.eu/social/BlobServlet?docId=17583&langId=en>