

ETUC Resolution on Fixing the Social Foundation – ETUC Statement on the need for a Social Protocol

Adopted at the Executive Committee Meeting of 25-26 October 2017

Introduction

On the occasion of the Gothenburg tripartite social summit the ETUC is organising a trade union event on 16 November to increase the pressure on the Member States and the EU for a meaningful European Pillar of Social Rights. In particular, we will step up our action for a Social Protocol to be included in the European Treaties, in order to ensure that social rights are properly upheld.

At this event, the ETUC intends to promote the statement below. All affiliates are asked to support this action.

Annex: Fixing the Social Foundation – ETUC Statement on the need for a Social Protocol

The European Union (EU) is based on the idea of people living together in a free, just and solidary society. A community that is based on partnership and respect for fundamental rights and that, at the same time, promises a better life for future generations.

However, it is equally true that the EU is in a fundamental crisis. European solidarity is at risk. The EU is recovering from the worst economic crisis in decades. But despite a moderate improvement in the labour market and the social conditions in some EU Member States, the consequences of the crisis remain far-reaching. The fundamentals of the EU and of the Eurozone remain incomplete and must urgently be reformed. The social divide is growing. Workers can see that irresponsible and semi-criminal companies ruthlessly exploit workers to increase profit margins.

It is time for Europe to change course. We need a European Union for the people, not only for the market. We need a European Union where all citizens – irrespective of national features of the Member States' social and labour market policies – have the same opportunity to live a good life and follow their dreams. We have to overcome the austerity-only policy and re-orientate EU economic policy towards growth, employment, investments and innovation. We also need to strengthen the respect for the autonomy of social partners and the national competences necessary to guarantee equal treatment of workers. The European Commission's proposal for a European Pillar of Social Rights should be used as an opportunity to strike a new balance in favour of a more social Europe.

We will do our part as trade unions to strengthen growth and combat social dumping. However, there are limits to what can be achieved under the current EU treaties. Fixing the foundation on which the pillar is built is therefore a necessity. This means putting an updated demand for a real social action programme, including legislative proposals to improve social standards and for a Social Protocol back on the political agenda in order to finally give fundamental social rights their just and proper position. If any Treaty changes are going to happen, they must at least include a Social Protocol, rebalancing social rights and economic freedoms. Without at least a Social Protocol, the ETUC will be against Treaty changes.

Our demand should be supported by everyone who believes in the EU. Because if EU regulations facilitate or, in the worst case, force competition on wages and working conditions on the internal market, the EU's future will be at risk. It will lead to the Union being perceived, with good reason, as a threat by large groups in the labour market and will ultimately undermine the support for free movement within the EU.

The simple fact is that social acceptance of free movement requires regulated labour markets and equal treatment of workers. There can be no free movement without equal treatment.

Three crucial points need to be included in a Social Protocol. Firstly, a rebalancing of fundamental rights and economic freedoms, a definition of "social progress" and "social market economy", and finally a safeguard clause protecting the autonomy of the social partners.

The relationship between fundamental social rights and economic freedoms

The European Court of Justice (ECJ) has, through its rulings in the Viking, Laval, Ruffert and Luxemburg cases, restricted fundamental social rights and opened the door to competition on wages and workers' conditions. In its decisions, the ECJ gave precedence to economic freedoms in the internal market, such as the freedom to provide services, over fundamental social rights such as freedom of association and the right to take collective action, including the right or freedom to strike.

The Social Protocol should clarify in EU primary law that neither basic economic freedoms nor competition rules take precedence over fundamental social rights. In the event of conflict, fundamental social rights must have priority.

Definition of "social progress" and "social market economy"

The Lisbon Treaty states that the Union shall work for a highly competitive social market economy, aiming at full employment and social progress and the continuous improvement of living and working conditions.

The Protocol needs to make clear that a social market economy combines economic growth with social justice and strong workers' (or "social") rights. Social rights are an essential prerequisite for social participation, peace within society and long-term economic success based on the quality of work.

Fundamental social rights and standards must therefore not be restricted by competition and liberalisation on the internal market. The Union must ensure that:

the living and working conditions of its population are improved and that the effective exercise of fundamental social rights and principles and in particular the right to negotiate, conclude and enforce collective agreements and to take collective action, can be effectively exercised.

workers are protected by recognising the right of workers and trade unions to strive for the conservation of existing standards as well as for the improvement of the living and working conditions of workers in the Union beyond existing (minimum) standards. Furthermore, to fight unfair competition on wages and working conditions, and to demand the equal treatment of workers regardless of nationality or any other grounds.

based on the principle of non-regression, Member States have the freedom to go beyond EU minimum standards in order to maintain or introduce stricter national rules that are more beneficial to workers.

The autonomy of the social partners

Finally, the protocol needs a clause strengthening the autonomy of the social partners, containing an explicit statement with references to the fundamental rights laid down in the EU Charter of Fundamental Rights and the ILO Conventions.

The position of social partners and their Agreements in the EU Treaty needs to be reinforced to guarantee transposition and effective implementation of Agreements both at cross-sectoral and at sectoral level.

The ETUC and its affiliates will reject future EU Treaty changes that do not at least include the incorporation of a Social Protocol.

If no Treaty change happens, we will explore other possible initiatives, to ensure that social rights and economic freedoms have the same level of importance in EU rules and practices.

We urge the political leaders gathered in Gothenburg, for the Social Summit on Fair Jobs and Growth on 17 November 2017 to commit to the strengthening of workers' rights and to sign up to the principles in this statement.