

Women's Economic Empowerment: Let's act together

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1 - EQUALITY BETWEEN MEN AND WOMEN - [5.10.8.]

Equality between women and men is one of the objectives of the European Union. Over time, legislation, case-law and changes to the Treaties have helped shore up this principle and its implementation in the EU. The European Parliament has always been a fervent defender of the principle of equality between men and women.

LEGAL BASIS

The principle that men and women should receive equal pay for equal work has been enshrined in the European Treaties since 1957 (today: Article 157 TFEU). Besides, Article 153 TFEU allows the EU to act in the wider area of equal opportunities and equal treatment in matters of employment and occupation. Within this framework, Article 157 TFEU furthermore authorises positive action to empower women. In addition, Article 19 TFEU enables legislation to combat all forms of discrimination, including on the basis of sex. Legislation against trafficking in human beings, in particular women and children, has been adopted on the basis of Articles 79 and 83 TFEU, and the Rights, Equality and Citizenship programme finances, among others, measures contributing to the eradication of violence against women, based on Article 168 TFEU.

OBJECTIVES

The European Union is founded on a set of values, including equality, and promotes equality between men and women (Articles 2 and 3(3) TEU). These objectives are also enshrined in Article 21 of the Charter of Fundamental Rights. Besides, Article 8 TFEU gives the Union the task of eliminating inequalities and promoting equality between men and women through all its activities (this concept is also known as 'gender mainstreaming'). The Union and the Member States have committed themselves, in Declaration No 19 annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, 'to combat all kinds of domestic violence [...], to prevent and punish these criminal acts and to support and protect the victims'.

ACHIEVEMENTS

A. Main legislation

EU legislation, mostly adopted by the ordinary legislative procedure, includes:

- Directive 79/7/EEC of 19 December 1978 obliging Member States to progressively implement the principle of equal treatment for men and women in matters of social security;
- Directive 92/85/EEC of 19 October 1992 introducing measures to improve the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding;
- Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between women and men in the access to and supply of goods and services;

- in 2006, a number of former legislative acts were repealed and replaced by Directive 2006/54/EC of 5 July 2006^[1] on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast). This directive defines direct and indirect discrimination, harassment and sexual harassment. It also encourages employers to take preventive measures to combat sexual harassment, reinforces the sanctions for discrimination, and provides for the setting-up within the Member States of bodies responsible for promoting equal treatment between women and men. At present, Parliament is seeking the revision of this directive as regards provisions on equal pay^[2] and has adopted an implementation report on the basis of several studies commissioned by the European Parliamentary Research Service (EPRS);
- Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC;
- Directive 2010/41/EC of 7 July 2010 laying down objectives for the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood, and repealing Council Directive 86/613/EEC;
- Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims. This directive replaces Council Framework Decision 2002/629/JHA and provides for the approximation of sanctions for trafficking in human beings across Member States and of support measures for victims, and calls upon the Member States to ‘consider taking measures to establish as a criminal offence the use of services which are the objects of exploitation [...] with the knowledge that the person is a victim [of trafficking]’ in order to discourage demand; it also establishes the office of the European anti-trafficking coordinator; the Committee on Women’s Rights and Gender Equality (FEMM) will prepare an implementation report on the directive later in 2015;
- Directive 2011/99/EU of 13 December 2011 establishing the European Protection Order with the aim of protecting a person ‘against a criminal act by another person which may endanger his/her life, physical or psychological integrity, dignity, personal liberty or sexual integrity’ and enabling a competent authority in another Member State to continue the protection of the person in the territory of that other Member State; this directive is reinforced by Regulation (EU) No 606/2013 of 12 June 2013 on mutual recognition of protection measures in civil matters, which ensures that civil protection measures are recognised all over the EU;
- Directive 2012/29/EU of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

[1]The recast directive also repeals Directive 76/207/EEC, which had been amended by Directive 2002/73/EC.

[2]See: European Parliament resolution of 24 May 2012 with recommendations to the Council on application of the principle of equal pay for male and female workers for equal work or work of equal value — Texts adopted, [P7_TA\(2012\)0225](#).

B. Progress in case-law of the European Court of Justice (ECJ)

The ECJ has played an important role in promoting equality between men and women. The most notable judgments have been:

- Defrenne II judgment of 8 April 1976 (Case 43/75): the Court recognised the direct effect of the principle of equal pay for men and women and ruled that the principle not only applied to the action of public authorities but also extended to all agreements which are intended to regulate paid labour collectively;
- Bilka judgment of 13 May 1986 (Case 170/84): the Court ruled that a measure excluding part-time employees from an occupational pension scheme constituted 'indirect discrimination' and was therefore contrary to former Article 119 if it affected a far greater number of women than men, unless it could be shown that the exclusion was based on objectively justified factors unrelated to any discrimination on grounds of sex;
- Barber judgment of 17 May 1990 (Case 262/88): the Court decided that all forms of occupational pension constituted pay for the purposes of Article 119 and the principle of equal treatment therefore applied to them. The Court ruled that men should be able to exercise their pension rights or survivor's pension rights at the same age as their female colleagues;
- Marschall judgment of 11 November 1997 (Case C-409/95): the Court declared that a national rule which, in a case where there were fewer women than men in a sector, required that priority be given to the promotion of female candidates ('positive discrimination') was not precluded by Community legislation, provided that the advantage was not automatic and that male applicants were guaranteed consideration and not excluded a priori from applying;
- Test Achats judgment of 1 March 2011 (Case C-236/09): the Court declared the invalidity of Article 5(2) of Directive 2004/113/EC as being contrary to the principle of equal treatment between men and women in the access to and supply of goods and services. Consequently, for men and women, the same system of actuarial calculation has to be applied to determine premiums and benefits for the purposes of insurance.

C. Latest developments

Below is an overview of the most recent action taken by the EU in the field of equality between men and women.

1. The multiannual financial framework (MFF 2014-2020) and the Rights, Equality and Citizenship programme

The programme Rights, Equality and Citizenship finances projects aimed at achieving gender equality and ending violence against women (Article 4). Together with the Justice Programme (Regulation 2013/1382), it has been attributed EUR 15 686 million until 2020 (MFF Regulation 1311/2013) and consolidates six programmes of the 2007-2013 funding period, among them the [Daphne III Programme](#) (Decision 779/2007) and both the 'Anti-discrimination and Diversity' and 'Gender Equality' sections of the [Programme for Employment and Social Solidarity](#) (PROGRESS) (Decision 1672/2006/EC).

The annex thereto specifies that the promotion of gender equality will be funded together with other anti-discrimination measures under Group 1, to which a share of

57% of the financial allocations is attributed. Combating violence against women is included in Group 2, with 43% of the overall financial envelope of the programme.

For 2016, the budget line 33 02 02 (promoting non-discrimination and equality) has EUR 33 546 000 in commitment appropriations and EUR 23 000 000 in payments, which represents a considerable increase in payments compared with 2015 and means that the implementation of this programme is advancing. In addition, the budget line 33 02 01 has been allocated EUR 25 306 000 to contribute, among other objectives, to combating and protecting against all forms of violence against women.

A study published in 2015 at the request of the FEMM committee provides an overview on the EU budget spent on gender equality^[3].

2. The European Institute for Gender Equality (EIGE)

In December 2006, the European Parliament and the Council established a European Institute for Gender Equality, based in Vilnius, Lithuania, with the overall objective of contributing to and boosting the promotion of gender equality, including gender mainstreaming in all EU and national policies. It also combats discrimination based on sex and raises awareness on gender equality by providing technical assistance to the European institutions through collecting, analysing and disseminating data and methodological tools (see the EIGE's online Resource and Documentation Centre: <http://eige.europa.eu/content/rdc>).

3. The Women's Charter and the Strategic engagement for gender equality 2016-2019

On 5 March 2010, the Commission adopted the Women's Charter with a view to improving the promotion of equality between women and men in Europe and throughout the world.^[4]

In December 2015, the Commission published the [Strategic engagement for gender equality 2016-2019](#)^[5] as a follow-up and prolongation of the Commission Strategy for equality between men and women (2010-2015).^[6]

The Strategic engagement focuses on the following five priority areas:

- [Increasing female labour market participation and equal economic independence](#);
- [Reducing the gender pay, earnings and pension gaps and thus fighting poverty among women](#);
- [Promoting equality between women and men in decision-making](#);
- [Combating gender-based violence and protecting and supporting victims](#);
- [Promoting gender equality and women's rights across the world](#).

[3]European Parliament, Policy Department on budgetary affairs, The EU budget for gender equality (2015).

[4]<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:em0033>

[5]Commission Staff Working Document – Strategic engagement for gender equality 2016-2019 (SWD(2015) 0278).

[6]The reflections on the next strategy started in September 2014 with a workshop entitled 'A new strategy for gender equality post-2015', which launched the preparation of the FEMM committee's own-initiative report leading to the adoption of Parliament's resolution of 9 June 2015 on the EU Strategy for equality between women and men post-2015 (Texts adopted, P8_TA(2015) 0218). The contributions to the workshop are available on the European Parliament's website.

4. Gender Action Plan 2016-2020

On 26 October 2015, the Council adopted the 'Gender Action Plan 2016-2020'^[7], based on the Commission and the European External Action Service (EEAS) Joint Staff Working Document on 'Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020'^[8]. The new Gender Action Plan stresses 'the need for the full realisation of women's and girls' full and equal enjoyment of all human rights and fundamental freedoms and the achievement of gender equality and the empowerment of women and girls'.

5. Sustainable Development Goals

The United Nations General Assembly adopted on 25 September 2015 the resolution on the post-2015 development agenda entitled 'Transforming our world: the 2030 Agenda for Sustainable Development'.^[9] The 2030 Agenda entails 17 Sustainable Development Goals (SDGs) and 169 Targets, which came into force on 1 January 2016. The SDGs are built on the Millennium Development Goals (MDGs). However, in contrast to the MDGs, which were intended for action in developing countries only, the SDGs apply to all countries. SDG 5 'Achieve gender equality and empower all women and girls' contains five Targets.

ROLE OF THE EUROPEAN PARLIAMENT

The European Parliament has played a significant role in supporting equal opportunity policies, in particular through its Committee on Women's Rights and Gender Equality (FEMM). In the area of equal treatment on the labour market, Parliament acts on the basis of the ordinary legislative procedure (codecision), for example regarding:

- the proposal for a directive on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures ([COM\(2012\) 0614](#)) (see Parliament's position at first reading, adopted at the end of 2013)^[10].
- the revision of Directive 92/85/EEC (see above); at first reading^[11] Parliament advocated a longer period of fully-paid maternity leave, namely 20 weeks.^[12] As there was no agreement reached between Parliament and the Council on the Commission proposal, the Commission has now withdrawn the proposal and replaced it with a Roadmap for the initiative 'A new start to address the challenges of work-life balance faced by working families'^[13].

[7]Council Conclusions on the Gender Action Plan 2016-2020, 26 October 2015.

[8]21.9.2015, SWD(2015) 0182.

[9]Resolution 70/1 adopted by the UN General Assembly on 25 September 2015.

[10]European Parliament resolution of 20 November 2013 on gender balance among non-executive directors of companies listed on stock exchanges — Texts adopted, P7_TA(2013) 0488.

[11]European Parliament resolution of 20 October 2010 on improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding — Texts adopted, [P7_TA\(2010\) 0373](#).

[12]For a comparative analysis of the legal provisions in the Member states, please see the European Parliament's Policy Department Citizens Rights and Constitutional Affairs report 'Maternity, paternity and parental leave: data related to duration and compensation rates in the European union' published in 2014, available on the European Parliament's website.

[13]http://ec.europa.eu/smart-regulation/roadmaps/docs/2015_just_012_new_initiative_replacing_maternity_leave_directive_en.pdf

In addition, Parliament contributes to overall policy development in the area of gender equality through its own-initiative reports, and by drawing the attention of other institutions to specific issues, including:

- combating violence against women by adopting a legislative own-initiative report requesting a legislative initiative on the part of the Commission on the basis of Article 84 TFEU promoting and supporting the action of Member States in the field of prevention of violence against women and girls (VAWG); this resolution includes a number of recommendations^[14]; the FEMM committee has established a special working group to follow up this resolution;
- empowerment of women and girls; International Women's Day 2016 will focus on female refugees and asylum seekers, and the FEMM committee is currently preparing an own-initiative report on the issue;
- gender equality in international relations, in particular regarding the developments since the so-called 'Arab Spring' in North Africa^[15].

Parliament is also seeking gender mainstreaming in the work of all its committees^[16]. To this end, two networks on gender mainstreaming have been established, which are coordinated by the FEMM committee. The network of Chairs and Vice-Chairs for Gender Mainstreaming brings together MEPs who support the introduction of a gender dimension into the work of their respective committees. They are supported by a network of Gender Mainstreaming Administrators in each committee secretariat. The High-Level Group on Gender Equality promotes training and awareness-raising about gender mainstreaming among the staff of the European Parliament and the political groups.

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[14]European Parliament resolution of 25 February 2014 on combating violence against women — Texts adopted, P7_TA(2014) 0126

[15]European Parliament resolution of 12 March 2013 on the situation of women in North Africa — Texts adopted, P7_TA(2013) 0075.

[16]See: European Parliament resolution of 13 March 2003 on gender mainstreaming in the EP — Texts adopted, [P5_TA\(2003\) 0098](#).

2 - THE FIGHT AGAINST POVERTY, SOCIAL EXCLUSION AND DISCRIMINATION - [5.10.9.]

By supporting Member States in the fight against poverty, social exclusion and discrimination, the European Union aims to reinforce the inclusiveness and cohesion of European society and to allow all citizens to enjoy equal access to available opportunities and resources.

LEGAL BASIS

Articles 19, 145-150 and 151-161 of the Treaty on the Functioning of the European Union (TFEU).

OBJECTIVES

Combating poverty and social exclusion is one of the specific goals of the EU and its Member States in the field of social policy. In accordance with Article 153 TFEU, social inclusion is to be achieved solely on the basis of non-legal cooperation — open method of coordination (OMC) — while Article 19 TFEU allows the EU to take action to fight discrimination both by offering legal protection for potential victims and by establishing incentive measures.

ACHIEVEMENTS

A. Fight against poverty and social exclusion

Between 1975 and 1994, the European Economic Community conducted a number of pilot projects and programmes designed to combat poverty and exclusion. However, Community action in this area was continually being contested in the absence of a legal basis.

The situation changed with the entry into force of the Treaty of Amsterdam in 1999, which enshrined the eradication of social exclusion as an objective of Community social policy. As provided for in Article 160 TFEU, a Social Protection Committee was established in 2000 to promote cooperation between Member States and with the Commission.

The Lisbon Strategy, launched in 2000, created a monitoring and coordination mechanism consisting of objective setting, poverty measurement on the basis of a set of indicators and benchmarks, guidelines for the Member States and national action plans against poverty. The OMC was also applied in parallel with other social protection sectors.

In 2005, the Commission proposed streamlining the ongoing processes into a new framework for the OMC on social protection and inclusion policies (the 'social OMC'). The overarching objectives of the social OMC include social cohesion, equality between men and women and equal opportunities for all through efficient social protection systems; effective and mutual interaction between the Lisbon objectives of growth, jobs and social cohesion; good governance and the involvement of stakeholders.

With its Recommendation on the active inclusion of people excluded from the labour market of October 2008, the Commission updated Council Recommendation 92/441/EEC and stated that 'Member States should design and implement an integrated comprehensive strategy for the active inclusion of people excluded from the labour market combining adequate income support, inclusive labour markets and access to quality services'.

One of the major innovations brought about by the Europe 2020 strategy for smart, sustainable and inclusive growth adopted in 2010 was a new common target in the fight against poverty and social exclusion: to reduce by 25% the number of Europeans living below the national poverty line and to lift more than 20 million people out of poverty.

To achieve this objective the Commission launched in December 2010 the European platform against poverty and social exclusion, together with a list of key initiatives to be completed, such as an assessment of active inclusion strategies at national level and a White Paper on Pensions ([COM\(2010\) 0758](#)). Since 2011, an Annual Convention of the platform has brought together policymakers, key stakeholders and people who have experienced poverty.

Faced with an increasing number of people in Europe at risk of poverty due to the crisis, the Commission adopted two further initiatives in 2013 to focus on economic growth and social cohesion and on the social implications of structural reforms.

In its Communication 'Towards Social Investment for Growth and Cohesion — Social Investment Package' of February 2013, the Commission urges the Member States to prioritise social investment in people with a view to investing in children in order to break the cycle of disadvantage.

Further, in October 2013, the Commission presented a proposal to strengthen the social dimension in the governance of the Economic and Monetary Union, responding to calls by the European Council. A key component is the social scoreboard, which is an analytical tool for detecting developments across the EU that require closer monitoring. It comprises five key indicators (unemployment; youth unemployment and the rate of young people not in education, employment or training (NEET); household disposable income; at-risk-of-poverty rate; and income inequalities). Since the 2014 European Semester exercise, the scoreboard has been included in the Joint Employment Report of the Annual Growth Survey, which sets out strategic policy priorities. Moreover, in 2015 three employment indicators (activity rate, long-term unemployment rate and youth unemployment rate) were added to the Alert Mechanism Report of the Macroeconomic Imbalance Procedure. However, these are not used to trigger any further steps, as the Commission presumes that they do not in themselves imply an aggravation of the macro-financial risks.

B. Anti-discrimination legislation

1997 can be regarded as a turning point, as a new article — Article 13 — was introduced into the Treaty Establishing the European Community (TEC) — now Article 19 TFEU — empowering the Council to take action to deal with discrimination on a whole range of new grounds, including racial or ethnic origin, religion or belief, age, disability and sexual orientation. In 2003 this article was modified by the Treaty of Nice to allow the adoption of incentive measures.

Subsequently, a number of directives were adopted:

— Racial Equality Directive (2000/43/EC);

- Employment Equality Directive (2000/78/EC);
- Equal Treatment Directive (2006/54/EC), merging a number of previous directives dedicated to equal opportunities for men and women.

Two further Commission proposals for directives enhancing equality are awaiting consensus in the Council: the directive on gender balance in company boards (2012) and the directive on implementing the principle of equal treatment between persons outside the field of employment (2008). Another directive, on maternity leave, (2008, amending a Directive of 1992) and backed by Parliament, was withdrawn in July 2015 after years of deadlock in the Council. Instead, the Commission started a new initiative, launching in November 2015 a public consultation on work-life balance to identify possible avenues for future European legislation. In a resolution of 12 May 2016 Parliament supported the extension of unpaid parental leave to at least six months and the introduction of a minimum paternity leave.

C. Incentive measures

In December 2002 Parliament and the Council adopted Decision 50/2002/EC establishing a programme of Community action encouraging cooperation between Member States for the purpose of combating social exclusion. A specific Community action programme to combat discrimination was established on the basis of Article 13(2) TEC (now Article 19(2) TFEU); it covered all of the grounds set out in Article 13, with the exception of sex, which was dealt with separately by the European Community's gender equality programme.

In 2007, all existing Community funding programmes in the area of employment and social affairs were integrated into a single framework with the adoption of the Progress programme. Covering a period of seven years, its aim was to rationalise expenditure and improve the impact of actions supported by the European Community (now the European Union). Under the current Employment and Social Innovation (EaSI) programme adopted in 2013 for the period 2014-2020 ([5.10.2](#)), the Progress axis has been allocated EUR 550 million (61% of the total EaSI budget) for measures promoting a high level of quality and sustainable employment, guaranteeing adequate and decent social protection, combating social exclusion and poverty, and improving working conditions.

The European Social Fund (ESF) also makes EU funding available to co-finance actions aimed at combating discrimination and helping the most disadvantaged to access the labour market. One of the major innovations is a special focus on young people, thanks to the Youth Employment Initiative (YEI) funded by the ESF and a specific EU budget line ([5.10.2](#)).

In March 2014 Parliament and the Council adopted Regulation (EU) No 223/2014 on the Fund for European Aid for the Most Deprived (FEAD), following a Commission proposal of November 2012. The fund supports EU countries' actions to provide material assistance, in combination with social inclusion measures, to the most deprived. The budget earmarked for 2014-2020 amounts to EUR 3.8 billion in real terms, plus an additional 15% in national co-financing by the Member States in accordance with their national programmes.

D. EU strategies for specific groups

In November 2010 the Commission adopted a European Disability Strategy 2010-2020 ([COM\(2010\) 0636](#)), building on the Disability Action Plan 2004-2010. As regards

gender equality, a new programme, the Strategic engagement for gender equality 2016-2019, follows on from the Commission's Strategy for Equality between Women and Men 2010-2015, which defines key priorities. Faced with a high number of jobless young people, the Commission proposed a Youth Employment Package comprising a European Youth Guarantee (Council Recommendation 2013), an Alliance for Apprenticeships (launched in 2013) and a Quality Framework for Traineeships (Council Recommendation 2014). Additionally, in February 2016 the Council adopted a Recommendation on the integration of the long-term unemployed, as proposed by the Commission ([5.10.3](#)).

ROLE OF THE EUROPEAN PARLIAMENT

The Treaty of Lisbon endowed Parliament with the power of consent in relation to the adoption of non-discrimination legislation under Article 19(1) TFEU. Parliament was an active player in the debate that led to the inclusion of this article and it has often called on the Commission and the Member States to ensure the full and timely implementation of the directives of 2000. Parliament has repeatedly adopted resolutions with the goal of strengthening EU action aimed at improving the conditions and prospects of the socially disadvantaged and reducing poverty. In addition, several of its reports stress the role of quality employment in preventing poverty. Further resolutions welcome the Commission strategy of active inclusion and the European platform against poverty (resolution of 6 May 2009 and resolution of 15 November 2011).

In its resolution of 20 October 2010 on the role of minimum income in combating poverty and promoting an inclusive society in Europe, Parliament supports a minimum income (at a level equivalent to at least 60% of the median income in the relevant Member State) and minimum wages set at a decent level (i.e. above the poverty threshold).

Moreover, Parliament was very active in pushing for the continuation of, and adequate funding for, the EU's food distribution programme for the most deprived (e.g. resolution of 7 July 2011 on the scheme for food distribution for the most deprived people in the Union), and agreed a rescue plan with the Council in February 2012. Following negotiations in 2013, the Council agreed to Parliament's request to increase the FEAD budget from EUR 2.5 billion to EUR 3.5 billion.

In several resolutions since 2012 Parliament criticises the fact that the full potential of the Lisbon Treaty regarding employment and social policies has remained untapped. It calls for the introduction of social and economic benchmarks with minimum standards to be applied. Parliament welcomes the Commission initiative to strengthen the social dimension and supports the establishment of a scoreboard to be used in the Commission's Joint Employment Report. It calls on the Commission to define concrete benchmarks in the form of a social protection floor (resolution of 20 November 2012 'Towards a genuine Economic and Monetary Union' and resolution of 21 November 2013 'Strengthening the social dimension of the EMU').

Recent resolutions express Parliament's concerns that the EU is a long way from achieving the employment and social targets, in particular the poverty target. Parliament calls for a growth-friendly and differentiated fiscal consolidation which would allow Member States also to tackle unemployment. As regards the social scoreboard it calls for the inclusion of additional indicators, such as child poverty levels and homelessness. The scoreboard should have a real influence on the whole European

semester process (resolution of 25 November 2014 'Employment and social aspects of the Europe 2020 strategy').

In its resolution of 11 March 2015 on 'the European Semester for economic and policy coordination: employment and social aspects in the Annual Growth Survey 2015', Parliament calls on the Commission to continue developing the social dimension and to make greater use of the social scoreboard in policy formulation. In general, employment and social considerations should be put on a par with macroeconomic considerations in the procedure of the European Semester. Moreover, Parliament calls in several resolutions for socially balanced and sustainable structural reforms and for efficient public spending without essential public and social services being jeopardised (resolutions of 25 February 2016 and of 24 June 2015).

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3 - SOCIAL DIALOGUE - [5.10.7.]

Social dialogue is a fundamental component of the European social model that gained full recognition in the Treaty with the Amsterdam reform. The social partners (representatives of management and labour) 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 (TFEU).

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. The aim of social dialogue is to improve European governance through the involvement of the social partners in decision-making and in the implementation process.

ACHIEVEMENTS

A. Bipartite social dialogue

According to the original wording in the Treaty of Rome, one of the Commission's tasks in the social field was to promote close cooperation between Member States with 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 Commission 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, training and other social issues resulted from the meetings of these social partners.

In 1992, the Social Dialogue Committee (SDC) was established as the main forum for bipartite social dialogue at European level. The SDC currently meets three or four times a year and comprises 64 members (32 representing employers and 32 representing workers) either from European secretariats or national organisations. Meanwhile, the Single European Act created a legal basis for the development of a 'Community-wide social dialogue'. 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 to implement directives by way of collective agreement.

The incorporation of the Agreement on Social Policy into the EC Treaty following the entry into force of the Treaty of Amsterdam finally allowed for a single 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), part-time working (1997) and fixed-term work (1999), which were implemented by Council directives.

At EU level, according to Article 154 TFEU, the Commission must consult the social partners before taking any action in the field of social policy. The social partners may then choose to negotiate among themselves an agreement on the subject of the consultation and stop the Commission's initiative. The negotiation process can take up to nine months and the social partners have the following possibilities:

- they may conclude an agreement and jointly ask the Commission to propose that the Council adopt a decision on implementation, or
- having concluded an agreement among themselves, they may prefer to implement it in accordance with their own specific procedures and practices and those of the Member States ('voluntary' or, later on, 'autonomous' agreements), or
- they may be unable to reach an agreement, in which case the Commission will resume work on the proposal in question.

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. After a modification of the proposal in November 2002, the process culminated in the adoption of Directive 2008/104/EC. Similarly, after the social partners had expressed their unwillingness to engage in negotiations, in 2004 the Commission put forward a proposal on the revision of Directive 2003/88/EC concerning certain aspects of the organisation of working time, including recent developments such as on-call work and flexible weekly working time. Parliament, the Commission and the Council were subsequently unable to agree on the issue, and the European social partners tried to find an agreement during a year-long negotiation process, which also broke down in December 2012 due to major differences on the treatment of on-call time as working time. In 2013, the Commission resumed the review and impact assessment process, conducting a broad public consultation in 2015, while at the same time preparing an implementation report as required by the Directive, all of which should help define the future outcome of the review.

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 for 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 a 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. In 2014, the Council implemented, by means of a directive, a sectoral agreement concerning certain aspects of the organisation of working time in inland waterway transport from 2012.

In April 2012, the social partners in the hairdressing sector concluded an agreement on clear guidance for hairdressers to work in a healthy and safe environment throughout

their careers, and requested a Council implementing decision. Since some Member States opposed parts of the agreement, the implementation through a Council decision did not proceed further. Instead, in June 2016, the social partners in the hairdressing sector signed a new European Framework Agreement on the protection of occupational health and safety, requesting implementation by a Council decision. In accordance with the Better Regulation agenda, the Commission will now, before submitting a proposal for an implementation decision to the Council, carry out a proportionate impact assessment, focusing in particular on the representativeness of the signatories, the legality of the agreement within the EU legal framework and respect for the subsidiarity and proportionality principles.

The agreement on teleworking 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).

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, 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 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.

However, since the economic and financial crisis started, social dialogue has increasingly suffered when crisis measures were implemented, being weakened by its decentralisation, a decline in bargaining coverage and state intervention in the area of wage policy. Against this background, and in view of the finding that the Member States in which the social partnership is strongest have been the most successful in overcoming the crisis, the new Commission undertook in November 2014 to re-launch and strengthen the dialogue with social partners, especially in the new economic governance set-up, as a prerequisite for the functioning of Europe's social market economy. In its communication of March 2016 on a first preliminary outline of a European Pillar of Social Rights, the Commission confirmed its priority of encouraging social dialogue at all levels, including with workers in the services sector and in the digital economy. Further, in June 2016 Vice-President Dombrovskis and Commissioner Thyssen signed a joint statement on a 'new start for social dialogue', agreeing with social partners to involve them more in the European Semester and in EU policy and law-making in general, and emphasising capacity-building. The statement underlines the fundamental role of the European social dialogue as a significant component of EU employment and social policy-making.

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, the role of which is to support the Commission in formulating specific policies. In general, these committees such as the Committee on Social Security for Migrant Workers are made up of representatives of national employers' organisations and trade unions, 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 from the social partners to the Laeken Summit in December 2001, the Council launched a Tripartite Social Summit for Growth and Employment in March 2003 (Council Decision 2003/174/EC) which has replaced the Committee on Employment. Facilitating 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 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 Commission and the social partners. The three Council presidencies are normally represented by the heads of state or government and the ministers in charge of employment and social affairs; equally, the Commission has two representatives, who are usually its President and the Commissioner 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 being paid to the need to ensure a balanced participation between men and women. Each group consists 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 under Article 152 TFEU.

ROLE OF THE EUROPEAN PARLIAMENT

Parliament 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 the 'trialogue' at European level. Its 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. The Lisbon Treaty has introduced a clear right for Parliament to be informed about the implementation of collective agreements concluded at Union level (Article 155 TFEU) and about 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.

In the midst of the economic crisis, Parliament has reiterated the fact that social dialogue is vital in order to achieve the employment targets set out in the EU 2020 Strategy ([2009/2220\(INI\)](#)). In January 2012, it stressed that, in focusing on fiscal

consolidation, the Annual Growth Survey's recommendations would hamper not only job creation and social welfare, but also social dialogue as such. Furthermore, in its resolutions on the 2014 European Semester cycle, Parliament once again stressed the importance of social dialogue and called for reinforcement of the role of social partners in the new economic governance process. Regarding the economic adjustment programmes in the countries most affected by the crisis, Parliament, in its resolution of 13 March 2014 on employment and social aspects of the role and operations of the Troika (the European Central Bank, the Commission and the International Monetary Fund) with regard to euro-area-programme countries, stressed that the social partners at national level should have been consulted or involved in the initial design of programmes.

Parliament has reiterated its stance in its legislative resolution on the proposal for a Council decision on guidelines for the employment policies of the Member States in September 2016, calling for improved social dialogue, especially that measures should be taken to combat the deregulation of labour markets and weakness of collective bargaining.

[Marion Schmid-Drüner](#)
12/2016

4 - SOCIAL AND EMPLOYMENT POLICY: GENERAL PRINCIPLES - [5.10.1.]

The social dimension of European integration has been greatly developed through the years. It is a key aspect of the Europe 2020 strategy, which aims at ensuring 'inclusive growth' with high levels of employment and a reduction in the number of people living in poverty or at risk of social exclusion.

LEGAL BASIS

Article 3 of the Treaty on European Union (TEU), and Articles 9, 10, 19, 45-48, 145-150 and 151-161 of the Treaty on the Functioning of the European Union (TFEU).

OBJECTIVES

The promotion of employment, improved living and working conditions, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion are the common objectives of the EU and its Member States in the social and employment fields, as described in Article 151 TFEU.

ACHIEVEMENTS

A. From the Treaty of Rome to the Maastricht Treaty

In order to allow workers and their families to take full advantage of the right to move and seek employment freely throughout the common market, the Treaty of Rome provided for the coordination of the Member States' social security systems. It enshrined the principle of equal pay for men and women, which was recognised by the Court of Justice as being directly applicable, and provided for the establishment of the European Social Fund (ESF) ([5.10.2](#)).

Concerns about structural imbalances and uneven growth in Europe later led to a more proactive social policy at Community level. In 1974, the Council adopted the first Programme of Social Action.

The Single European Act (SEA) introduced provisions for the harmonisation of health and safety conditions at work. Acting by qualified majority in cooperation with Parliament, the Council adopted a number of directives laying down minimum requirements in this area. The SEA also made it possible for the social partners at European level to negotiate collective agreements, and established a Community policy for economic and social cohesion.

Consensus grew around the need to pay more attention to the social aspects connected with the completion of the internal market. Following long debates, the Community Charter of the Fundamental Social Rights of Workers (Social Charter) was adopted at the Strasbourg Summit in December 1989 by the Heads of State or Government of 11 Member States, with the United Kingdom opting out.

With the signing of the Maastricht Treaty, the promotion of a high level of employment and social protection was officially introduced as one of the tasks conferred on the

European Community (EC). However, having been unable to reach a unanimous agreement during the intergovernmental conference, 11 Member States decided to move ahead by concluding an Agreement on Social Policy, which contained some significant innovations ([5.10.6](#); [5.10.8](#)). Protocol No 14 to the Treaty, to which the agreement was annexed, stated that '11 Member States [...] wish to continue along the path laid down in the 1989 Social Charter', thereby exempting the UK from participation.

The Council was endowed with the power to adopt directives laying down minimum requirements in several new sectors, which would then be binding on all Member States except the UK.

B. From the Amsterdam Treaty to the Treaty of Lisbon

The uncomfortable situation of a double legal basis, created by the UK opt-out, was finally overcome with the signing of the Amsterdam Treaty, when all the Member States, including the UK (following a change in government), agreed to incorporate the Agreement on Social Policy into the text of the EC Treaty with some slight changes (Articles 151-161 TFEU). In Article 153, the co-decision procedure replaced cooperation and was also extended to provisions relating to the European Social Fund ([5.10.2](#)), the free movement of workers and social security for Community migrant workers ([5.10.4](#)). A new paragraph provided for measures designed to encourage cooperation between Member States in order to combat social exclusion. The new Article 19 conferred on the EC the ability to 'take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation'. On this basis, two directives were soon adopted: Directive 2000/43/EC on equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78/EC on a general framework for equal treatment in employment and occupation.

The Amsterdam Treaty also included the promotion of a high level of employment among the EU objectives and conferred on the EC a responsibility to support and complement the activities of the Member States in this area, to encourage cooperation between them and to develop a 'coordinated strategy', namely the European Employment Strategy (EES) (Articles 145-150 TFEU), based on an open method of coordination (OMC) ([5.10.3](#)). During the Amsterdam Summit in June 1997, it was decided that the provisions of this new title of the Treaty would be applied immediately.

When launching the Lisbon Strategy in March 2000, aimed at making the EU the most competitive economy in the world, the heads of state also recognised that economic growth was not in itself sufficient to fight poverty or the danger of social exclusion, and committed themselves to improving cooperation in this area based on an open method of coordination (which would later be extended to pensions, health and long-term care as part of the so-called 'social OMC').

The year 2000 also saw the adoption, at the Nice Summit, of a European social policy agenda up to 2005, as well as a Charter of Fundamental Rights of the EU, drafted by a special Convention. However, the signing of the Nice Treaty was rather disappointing for those expecting major progress in the social sector. A Social Protection Committee was created to promote cooperation between Member States and with the Commission (Article 160 TFEU) on social protection policies, but all proposals to expand the co-decision procedure were rejected.

In the light of the mid-term review of the Lisbon Strategy in 2005, the employment guidelines adopted as part of the EES were incorporated into the integrated guidelines for growth and jobs, and the Lisbon reform process was synchronised with the social OMC on the basis of three-year cycles.

A new social agenda for the 2006-2010 period was adopted in 2005 to accompany the relaunch of the Lisbon Strategy. An EU programme for employment and social solidarity, called Progress, was established for the 2007-2013 period to support the implementation of the EU's objectives in the social field ([5.10.9](#)). In 2007, a European Globalisation Adjustment Fund (EGF) was created to provide support for workers made redundant as a result of changing global trade patterns ([5.10.2](#)).

The Treaty of Lisbon was signed on 13 December 2007, allowing for further progress in consolidating the social dimension of European integration. The Treaty on European Union now emphasises the EU's social objectives, including full employment and solidarity between generations (Article 3); Article 6 recognises the Charter of Fundamental Rights as having the same binding force as the Treaties. The Charter itself recognises so-called 'solidarity rights', such as workers' right to information and consultation, as well as the rights to collective bargaining, fair and just working conditions, social security and social assistance. A horizontal social clause was introduced into the TFEU, reading as follows: 'in defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health' (Article 9).

C. Developments since the Lisbon Treaty

In July 2008 the Commission published a renewed social agenda entitled 'Opportunities, access and solidarity in 21st century Europe' in response to growing unemployment due to the financial and economic crisis. Measures were introduced to enhance the impact of existing financial instruments (the ESF and the EGF). In addition, a new European Progress Microfinance Facility was set up in 2010 to provide microcredit to small businesses and unemployed people wishing to create or further develop their own business.

Inclusive growth (fostering a high-employment economy that delivers social and territorial cohesion) is one of the priority areas of the Europe 2020 strategy, the successor to the Lisbon Strategy. The new EU strategic agenda mentions for the first time a clear target for its 'social' pillar (the objective of lifting 20 million people out of the risk of poverty by 2020), together with a renewed commitment to an ambitious goal in the area of employment (75% employment for the 20-64 age group). Of the seven flagship initiatives selected to help achieve the Europe 2020 targets, three fall within the areas of employment and social affairs: the Agenda for New Skills and Jobs is aimed at revamping flexicurity policies to make the labour market function better, helping people develop the skills of tomorrow and improving job quality and working conditions; Youth on the Move contributes to better education and training, helps young people to study abroad and makes it easier for them to find a job; and the European Platform against Poverty and Social Exclusion helps to disseminate best practices and makes funding available in order to support social inclusion and combat discrimination (see fact sheet [5.10.9](#)). Since 2010, the headline employment and social targets of the Europe 2020 strategy have served as goals for the benchmarking of the European

Employment Strategy (EES). This has been included in the European Semester, which is a procedural tool to improve the time consistency of EU policy coordination on macroeconomic, fiscal, employment and social issues in recurring yearly cycles.

To move towards a deeper and fairer Economic and Monetary Union, in March 2016, the Commission launched the public consultation on a preliminary outline for a European Social Pillar of Social Rights as part of the Commission's Work Programme 2016. This could take the form of a reference document to update EU legislation and to screen the performance in the euro area. Other Member States may join the initiative. It consists of three strands: (1) equal opportunities and access to the labour market, (2) fair working conditions, and (3) access to adequate and sustainable social protection.

ROLE OF THE EUROPEAN PARLIAMENT

Although Parliament's role has long been a purely consultative and supervisory one, it has always been active in the development of EU action in the field of employment and social policy, with a view to strengthening the EU's capacity to combat unemployment and improving working and living conditions for all. Since the early stages of European integration, Parliament has often called for a more active policy in the social field so as to reflect the increasing importance of the Union in the economic area, and has supported the Commission's different proposals in this area. Parliament was more closely involved in the preparation of the Treaty of Amsterdam than in previous Treaty revisions, and some important innovations reflect its recommendations, such as the incorporation of the Social Agreement and the insertion of an employment chapter.

At the time of the Lisbon Strategy, Parliament insisted on the role that employment and social considerations should play in the design of growth strategies to be implemented at EU and national level. It recalled that a high level of social protection was central to the Lisbon Strategy, considering it unacceptable that people should be living below the poverty line or in a position of social exclusion. Parliament also took the view that the Lisbon Strategy did not set sufficiently binding targets in the social sphere, and called on the Member States to monitor closely the employment and social impact of the reforms implemented as part of the Europe 2020 strategy. Along the same lines, one of the messages conveyed by Parliament while debating the economic crisis was a firm call for an EU commitment to preserving European social models and a strong social Europe.

Since the headline goals of the Europe 2020 strategy are monitored and implemented as part of the European Semester process, Parliament has repeatedly insisted on incorporating the employment and social goals more effectively into the European Semester, inter alia through making social indicators binding and extending indicators to cover child poverty and decent work, for example. It also deeply regrets the fact that its role in the European Semester is of a limited nature, and has called for an inter-institutional agreement enabling it to become more involved in the process.

Finally, Parliament has been highly critical as regards measures, such as economic adjustment programmes, taken outside the supranational framework. In March 2014 Parliament stated that only genuinely democratically accountable institutions should steer the political process of designing and implementing the adjustment programmes for countries in severe financial difficulties.

Parliament has also confirmed its attachment to social values in deciding on the use of financial resources from the EU budget. Most recently, Parliament managed to

ensure that the European Social Fund (ESF), Europe's main tool in the fight against unemployment and social exclusion, accounts for 23.1% of global EU cohesion funding, and that 20% of each Member State's ESF allocation will have to be spent on social inclusion.

In its resolution of 25 February 2016 on the European Semester for economic policy coordination, Parliament called on the Commission and the Member States to take action to boost upward social convergence in the Union. It also called on the Commission to define and quantify its concept of social fairness. The development of a European Pillar of Social Rights is a step in this direction and will be intensively discussed by Parliament.

Susanne Kraatz
12/2016



THE EUROPEAN UNION AT A GLANCE

The aim of the Fact Sheets is to provide an overview of European integration and of the European Parliament's contribution to that process.

Created in 1979 for Parliament's first direct elections, the Fact Sheets are intended to provide non specialists with a straightforward and concise – but also accurate – **overview of the European Union's institutions and policies**, and of the role that Parliament plays in their development.

The Fact Sheets are grouped into six chapters:

- **How the European Union works**, which addresses the EU's historical development, legal system, institutions and bodies, decision-making procedures and financing;
- **Citizens' Europe**, which describes individual and collective rights;
- **The internal market**, which explains the principles and implementation of the internal market;
- **Economic and Monetary Union**, which outlines the context of EMU and explains the coordination and surveillance of economic policies;
- **Sectoral policies**, which describes how the EU addresses its various internal policies;
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Drafted by the Policy Departments and the Economic Governance Support Unit, the Fact Sheets are **reviewed and updated at regular intervals** throughout the year, as soon as Parliament adopts any important positions or policies.

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