

CGIL



CONFEDERAZIONE
GENERALE
ITALIANA
DEL LAVORO

CGIL POSITION

FOR THE DEVELOPMENT OF A

“EUROPEAN PILLAR OF SOCIAL RIGHTS”

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1. THE CONTEXT AND COMMUNICATION OF THE EUROPEAN COMMISSION

The intention to adopt a European Pillar of Social Rights (EPSR) was announced by the President of the European Commission Juncker on 9 September 2015 in his speech to the EU Parliament on the state of the EU.

On that occasion, **Juncker expressed the intention to intensify work “on a fair and truly pan-European labour market (...) also through the development of a European pillar of social rights”** which takes into account the changing realities of European societies and the world of work and which might serve as a compass for a renewed convergence in the Eurozone”, in a process in which the social partners play a central role. The objective of the pillar is to express a number of essential principles for the achievement of functioning and fair labour markets and systems of social protection. The intention is to develop it in the Eurozone, allowing other member states to join on a voluntary basis.

The Pillar should develop and integrate the existing social *acquis* and become a framework for evaluating the employment and social performances of the member states. CGIL, along with CISL and UIL, is involved in the consultation process launched at European level by the European Commission through the European Trade Union Confederation (ETUC).

CGIL believes that the process of public consultation, while, on the one hand, allowing a broad participation by individual citizens, on the other, lacks appropriate rules, development and transparency in the publication, processing and presentation of the results. In no case should public consultations replace or be confused with dialogue with the social partners at European, national and local level.

On 8 March 2016, the EU Commission published a Communication and an Annex which is the subject of extensive public consultation, and in June and October two hearings were held with the European social partners at which the CGIL participated as a member of the ETUC delegation.

In addition, making use of the EESC (European Economic and Social Committee), the European Commission carried out national tripartite consultations with representatives from trade unions, employers and other interested parties.

The policy domains in the annex of the European commission are grouped in three chapters:

1) Equal opportunities and access to the labour market: development of skills and lifelong learning, active support to increase employment opportunities, to facilitate the transition between different statuses and improve employability.

2) Fair working conditions: an adequate and stable balance between the rights and obligations of workers and employers, a balance between flexibility and security to facilitate the creation of jobs, recruitment and adaptability of enterprises, and the promotion of social dialogue.

3) Adequate and sustainable social protection: access to essential high-quality services, including healthcare and long-term care, sustainable pensions, minimum wage floors to ensure a dignified life and protection against risks and to allow people to participate fully in the labour market and, more generally, society.

Within these three areas 20 policy domains for intervention have been identified connected to different principles. These principles are dictated by a series of rights already recognised in the *acquis* of the Union and other sources of relevant law, and they define more precisely possible means to make them operational. The policy domains are:

1. Skills, education and lifelong learning
2. Flexible and secure contracts labour
3. Secure professional transitions
4. Active support to employment
5. Gender equality and work-life balance
6. Equal opportunities
7. Conditions of employment
8. Wages
9. Health and safety at work
10. Social dialogue and involvement of workers
11. Integrated social benefits and services
12. Healthcare and sickness benefits
13. Pensions
14. Unemployment benefits
15. Minimum income
16. Disability
17. Long-term care
18. Childcare
19. Housing
20. Access to essential services

2. GENERAL COMMENTS

On the consultation process

CGIL welcomes the involvement of the European social partners in the consultation process, but expresses serious concerns with respect to the open consultation that the Commission has also begun on its website on the EPSR.

In fact, open consultation must not take the place of the specific rules on consultation of the social partners, rules that have to be observed every time that the European Commission intends to activate a legislative initiative regarding the matters listed in Article 153 of the TFEU.

In addition, CGIL considers it appropriate that the European and national social partners be provided with the necessary tools to ensure that the consultation is open, democratic and conducted in a transparent manner.

On the structure of the basic documents

The CGIL expresses serious concerns with respect to the structure of the document, which consists of a Communication and an Annex that in fact corresponds to a draft of the Pillar itself. It would have been helpful if the general principles and policy domains in the Annex had been included in a single comprehensive document for the later stages.

It is to be hoped therefore that this dichotomy will be overcome during a later phase of elaborating the documents.

On the legislative instruments

CGIL believes that the Pillar should be characterised by binding legislative instruments, valid for the whole European Union and not only the Eurozone countries. The mechanism for optional adhesion for countries outside the Eurozone would not guarantee a uniform coverage of the EPSR and could lead to unequal treatment between different countries.

On the concrete function of the EPSR

The European Pillar of Social Rights cannot be made up merely of declarations of principles or good intentions, but must include precise binding instruments (regulatory, decisional and financial). It should have the aim of positively influencing the lives of citizens and the construction of a Europe founded on respect for social rights and on coherent objectives of the Treaty, to reinforce social cohesion and an upwards convergence. The EPSR should influence the functioning of the market from a point of view of people's welfare and sustainable development.

It is therefore necessary that the EPSR binds both the member states and the EU institutions and that the rights contained therein apply also to EU citizens and citizens of third countries legally resident in the EU.

The content of the EPSR should then be inspired by and refer to the rights guaranteed in the Charter of Fundamental Rights, the European Social Charter and the European Convention of Human Rights (ECHR), as interpreted by the European Committee for Social Rights and the European Court of Human Rights. It is also necessary that the content of the EPSR respects and refers to the Conventions and Recommendations of the International Labour Organization.

Finally, it would be appropriate for the EPSR to refer to the cross-border dimension, inserting a clause providing for the prohibition of discrimination between posted workers

and workers employed in the country of posting.

The EPSR should be adopted as early as 2017 as a binding agreement between the European Parliament and the European Council, with the full and ongoing involvement of the social partners. The Pillar should be accompanied by a detailed time schedule for its implementation.

In support of the EPSR, a "silver rule" for social investment should be introduced, to be applied during the implementation of the stability and growth pact, able to highlight how public social investments can produce positive effects on economic growth and employment (for example, services for health and caring for people, for children or education and training), and thus be eligible to benefit from a favourable treatment during the assessment of the public deficit (and compliance with the 1/20 debt rule).

The presupposition is still, however, a macro-economic policy aimed at creating quality employment as proposed previously by the ETUC with its "New Path for Europe" and the "Plan for Jobs" of the CGIL. Furthermore it requires an innovative industrial policy that also pursues a circular model of organisation and management, and addresses the issue of de-carbonisation which is essential to combat climate change. Workers employed in high-carbon sectors should be guaranteed a fair transition to new jobs starting with those in the green economy.

3. PROPOSALS FOR A STRONG AND BINDING EUROPEAN PILLAR OF SOCIAL RIGHTS

- 1. Rights at work**
- 2. Rights in welfare**
- 3. Social dialogue and democracy in the workplace**

3.1 RIGHTS AT WORK

The European Pillar should guarantee – throughout Europe – the principles contained in the draft law of popular initiative for a “Charter of Universal Labour Rights“. In this proposal, our organisation listed a series of “inalienable” rights for all workers, ranging from fair and proportionate pay that fills the gender pay gap to freedom of expression, from the right to safety to the right to rest, to voluntary mobility, but also to equal opportunities and lifelong learning, an ongoing updating of knowledge and skills. The redefinition of the universal principles, the laws that grant efficacy to bargaining on the basis of the rules of democracy and representation which apply to everyone, the rewriting of labour contracts: these are the three pillars of the draft law.

We believe that the effective implementation of these rights and the abovementioned pillars described in the Charter might be an effective contribution for the drafting of the proposal of those principles listed in the Annex to the Communication of the European Commission.

There are rights in many countries which are founded on constitutional principles and confirmed in the founding treaties of the European Union and international conventions which have to be guaranteed to all workers. A job without rights reduces work to a commodity; universal rights instead make work a factor of wellbeing and growth. Whatever work someone does, however they perform their work, whatever contract they have, these rights must always be recognised and enjoyable. The EPSR could therefore be a guarantee of upwards convergence between the various EU countries in terms of equality of treatment in the effective use of these social rights, regardless of political opinion, gender, ethnic or linguistic group, geographic origin, religious confession or nationality.

The right to work. Everyone has the right to work in a freely chosen or accepted job or profession.

The right to decent and dignified work. Everyone has the right to decent and dignified work that is carried out in respect of professionalism and with fair working conditions.

The right to clear and transparent working conditions. All workers have the right to clear and transparent contractual conditions, provided in writing, and to receive any relevant information regarding the protection of their interests and rights.

Right to fair and proportionate pay. Each job has to be paid fairly, in proportion to the quantity and quality of work carried out and with reference to what is provided for in the

collective contracts or collective agreements entered into by the associations of self-employed workers.

In order to fully implement the principle of gender equality, it will be necessary to identify effective strategies to combat the gender pay gap.

In respect of national practices, it is particularly important to launch a European minimum wage mechanism that plays an anti-dumping role and reduces downwards competition in terms of pay.

Freedom of expression. All workers, without discrimination, have the right to freely express their thoughts, in their workplaces.

The right to safe environmental and working conditions. All workers have the right to work in safe environmental and working conditions, so as to ensure the protection of their physical and mental health and personalities.

The right to rest. All workers, including the self-employed, have the right to rest as a period during which they cannot be asked to work.

The right to reconcile family and professional life. Workers have the right to choose the time and means of parenting, without suffering any prejudice in terms of employment. Leave must be truly universal, also through the exercise of collective bargaining.

The right to equal opportunities between men and women in matters of work and the professions.

The right not to be discriminated against in access to employment and in the course of employment. All workers should be protected against discrimination, including indirect discrimination, and all forms of harassment.

The right to privacy and the prohibition of remote controls and data processing and the extension of protection relating to the freedom and dignity of workers. The protection of privacy with regard to remote controls and the right to confidentiality.

The right to information. All workers have the right, also through the collective organisations they belong to, to be informed of all events relating to the company that may impact on their working relationship.

The right to reasonable solutions in case of disability or long-term illness. All workers who, because of disability or long-term illness, suffer a limitation are entitled to reasonable material and organisational solutions.

The right to reconsider and the right to reasonable notice in the event of unilateral contract changes. Workers have the right to be protected in the event of the declaration of an agreement that attributes unilateral powers to the counterparty.

The right to knowledge. All workers have the right to lifelong learning, to the recognition and validation of qualifications and formal, non-formal and informal skills in Europe, to an effective system of active policies, to access to new technologies and the acquisition of the skills required to avoid social exclusion of low-skilled workers.

To this end, the subjective right to lifelong learning must be affirmed by law and collective

agreements. Everyone should enjoy this right and measures should be taken to remove economic and time barriers that prevent workers accessing training.

Integrated public lifelong learning systems must ensure adequate training and support services capable of customising the paths, to include as a priority individuals with low levels of education, to certify the skills acquired on the basis of a European framework that enables their full recognition and use in all EU states, in the labour market and for continuing education.

The right to dignified and self-determined mobility (voluntary). All workers have the right to self-determination in their own lives and work in Europe. It is necessary to guarantee the basic principles of decent mobility. It is necessary to implement tools to support voluntary mobility, through a system of portability of social security benefits between countries, guidance policies for mobility, active policies and support for mobile workers and policies to support the integration of incoming workers .

The right to the protection of inventions and creative works. The fruit of a worker's intelligence in the performance of their work and that is not already included in the contract should be recognised to the worker.

The protection of employees in the event of cancellation and non-renewal of successive contracts. All workers are entitled to protection in the case of a lack of justification for the withdrawal or non-renewal of a contract in order to combat abuse and discrimination.

Legal protection of workers' rights and the protection of workers against unfair dismissal. All workers have the right to free access for the reasonable duration of trials, and fair compensation in cases of disputes relating to labour relations.

Prevention of illegal employment, the organisation of work through violence, threats, intimidation and exploitation. All workers have the right to protection against the use of illegal employment as a criminal offence and anyone who organises and uses employment through violence, threats, intimidation or exploitation.

3.2 WELFARE RIGHTS

As for **social protection** in the EPSR it is necessary:

- to recognise that benefits and social protection services are an essential instrument to guarantee social rights and, at the same time, a powerful factor for economic development and the creation of jobs to support voluntary mobility. Thus it requires the abandonment of austerity policies that consider social protection as a cost or, worse, an obstacle to financial sustainability and competitiveness;
- to prioritize for the **recognition of fundamental social rights** (healthcare, assistance, education and training, housing, etc.), to models of universal protection, financed by a fair tax system;
- to support easily accessible **and social protection services**, for which the private sector, preferably non-profit, should be maintained as part of public planning and

evaluation;

- to provide for the **right to a decent reception system** and shared responsibility between and across all the EU countries of refugees, asylum seekers and migrants. In addition, member states are required to provide or amend legislation so as to eliminate any legal or legislative institution that might directly or indirectly constitute a discriminatory factor against citizens of different nationalities from that of their domicile or residence or from third countries;
- to ensure the **full portability of rights and social benefits** in all countries, to guarantee the right to fair mobility for workers;
- all citizens must have the right to a **decent and fair pension**, that ensures a good quality of life in the post-work phase: the increase in life expectancy and the reduction of the workforce should be faced firstly by increasing the overall rate of employment, as a structural response for the sustainability of pension systems and equity between the generations; the retirement age should be established, not only on the basis of life expectancy, but taking other factors into consideration, including trends in the labour market, the economic dependency index, the birth rate and the differences related to arduous work; workers should have the right to lost free aggregation of social security contributions from different countries; furthermore, in relation to workers from third countries, it is necessary to extend bilateral agreements on social security;
- to guarantee universal access to **a healthcare system of prevention and treatment that is timely and of a good quality**; all citizens must have protection for illness and healthcare. For this reason, Italy has to raise the level of healthcare funding, which is well below that of many European countries; it is also necessary to develop a specific action to counter health inequalities. Prevention also has to act on the social, environmental and climatic factors that impact on health;
- **the right to income support**. All workers have the right, in the event of involuntary unemployment or the suspension of production or reduction to part-time employment, to an insurance system – also at a European level – that ensures a decent life standards and adequate protection, including services and assistance in finding a new job and investments for income training; Promotion of activities of orientation at work towards strategic professions in particular for young people, women and unemployed,
- to establish a European framework on **minimum income schemes**, to preserve human dignity, aimed at promoting social inclusion: combining monetary benefits with services for training with social and labour inclusion. The minimum income must be part of a set of wider policies aimed at **combating poverty**, with a particular

focus on child poverty. In addition to EU regulations, it will be up to member states to intervene, also according to Recommendation 92/441 of the European Council;

- to ensure to **persons with disabilities** not only the right to decent work and reasonable accommodation, but also enabling services and basic security in terms of income that allows them a decent life standards and social and labour inclusion;
- to adopt common European rules on the **right to long-term care**, as a necessary response in the face of the growing social and health needs of an ageing population. The presence of adequate and accessible quality public social-health services – with suitably qualified professionals employed in decent conditions – needs to be combined with support instruments for people and their families (e.g. caregivers), to ensure as far as possible the right to live in their own environment. What is required is a comprehensive strategy to reorganise and improve daily living conditions: for housing (also thanks to the new automatic technologies), leisure time, transport, mobility (e.g. in relation to architectural barriers), personal relationships and with the wider community, active ageing;
- increased life expectancy is the positive result of social policies and lifestyles and should be a point of no return for European societies. The elderly population requires a requalification of welfare, but is at the same time a resource: it is necessary to make the most of the experiences, knowledge, volunteer and community work (including trade unions) that constitute an important part of an increasingly widespread **active ageing**. European social policies have to identify and implement the regulatory instruments and appropriate services to promote, support and enhance ageing as a resource for the whole society, with a view to increasing social cohesion and participation and full citizenship in every stage of life;
- to ensure the **right to housing**, with access to social housing and adequate housing benefits for those in need, including, obviously, the homeless. Vulnerable people and poor families have to be protected in the event of eviction and tax incentives should help young people with low income to create own households;
- to ensure **adequate policies and interventions for children** starting from the services for early childhood, adaptable to the needs of the family and, above all, the children, as a right for every child, especially in the 0-3 age group;
- to ensure access to quality care services for children, the elderly and people who are not self-sufficient.

3.3 SOCIAL DIALOGUE AND DEMOCRACY IN THE WORKPLACE

The right to freedom of trade union organisation, negotiation and collective action and to the representation of the interests of labour. All workers have the opportunity to organise

themselves freely, to negotiate and take collective action for the protection of their trade union and professional interests.

The European pillar should ensure the **universal application of collective bargaining and the freedom of participation for all workers**, through rules decided at national level with the social partners for representation that bring together the public/private, large/small companies, standard/atypical workers, introducing specific rules for the self-employed.

It is fundamental to ensure participation of workers in the discussion on agreements and the freedom to elect their representatives freely making workers active and aware subjects, and providing instruments and rules for negotiations.

The right to strike. The right to strike, must be regulated through rules agreed with the trade union organisations, and be guaranteed to all workers, regardless of the type of contract, type and size of company and the business sector.

In addition, there should be coordination at European level to ensure to workers notably, in the supply chains and multi-national companies, the freedom to act at a transnational level and in a coordinated manner.