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by the European Constitution*

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*Participatory democracy: towards a new partnership  
between all those concerned by European governance*

**STATEMENT**

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I understand European social dialogue to mean dialogue between and with the European social partners, that is employers' and workers' organisations accredited by the Commission on the basis of a number of criteria of representativeness.

### **The specific nature of European social dialogue**

In the Title on *The Democratic Life of the Union*, the draft constitutional Treaty drawn up by the European Convention recognises the particular nature of social dialogue with a specific provision (Article 47) separate from the general article on dialogue between the institutions and representative associations and civil society (Article 46.2). Given that certain members of the Convention wanted social dialogue to be included in the general article, it is very significant that the Convention gave it a separate provision: *"The European Union recognises and promotes the role of the social partners at Union level, taking into account the diversity of national systems; it shall facilitate dialogue between the social partners, respecting their autonomy."*

The European Economic also mentions the special role of social dialogue and Social Committee in its resolution addressed to the European Convention of 18 September 2002:

*"In this regard, a clear distinction should be made between (i) dialogue with and between civil society organisations, and (ii) social dialogue. The European social dialogue is a mechanism with quasi-legislative powers. It is clearly defined in terms of participants, powers and procedures."* (point 3.3)

This reference to social dialogue in Part I of the constitutional Treaty also confirms that the role of the social partners goes beyond that attributed to them in the "social policy" chapter (cf. Part III of the draft constitutional Treaty), notwithstanding the importance of the option given to the social partners in that chapter to take on the responsibility of alternative legislator.

It is thus necessary to dispel a reductionist view of social dialogue as merely joint consultation prompted by Commission referrals and geared mainly towards negotiating agreements. Social dialogue has a much wider scope. After all, the social partners have agreed on an independent work programme providing for 19 actions, including two negotiations. After all, as well as joint consultation – whether prompted by referrals or own-initiative – there is dialogue in the form of tripartite consultation and discussion, as for example the Tripartite Social Summit for Growth and Employment and the meetings of the troika of social affairs ministers just before the social affairs councils.

In the broader sense, European social dialogue is the European version of a system found in various forms in a large majority of the Member States, where the social partners negotiate directly with public authorities on socio-economic issues – as privileged, but not exclusive, interlocutors – and where the social partners' involvement goes beyond co-regulation and self-regulation insofar as they are able to negotiate legally binding collective agreements. It is the national industrial relations systems that give them this quasi-institutional role in most of the Member States. The European equivalent of this mechanism is set out in Articles 138 and 139 of the Treaty.

European social dialogue cannot be separated from national social dialogue, which is just as important given that social policy remains largely a national

responsibility, which the European Union endeavours to steer through the open coordination method (employment, social protection) and through European social standards in the form of framework provisions that must be implemented at national level (e.g. through collective agreements, Article 137.4).

It follows that the European social partners must be directly in touch with their national members and be particularly heedful of the principles of "democratic legitimacy", which means having a remit defined by their members, having clear objectives and resources, and being obliged to justify the measures they take (*accountability*). This necessitates a series of consultations: UNICE must consult its national members, who must consult their sectoral members, who must consult those they represent.

### **Complementarity between social dialogue and dialogue with organised civil society**

The particular role of social dialogue does not mean that it cannot complement dialogue with other civil society players, provided the autonomy of each side is respected. I prefer the idea of complementarity to that of partnership, because partnership suggests organisations as parties to agreements, in negotiations, which only applies to the social partners.

### **Complementarity between social dialogue and social NGOs**

The European social partners include national social partners that in most of the Member States co-finance and manage social security systems. Their position necessarily involves a concern to balance income and expenditure, which also poses the problem of reconciling salary increases with salary deductions

(contributions). The European social partners share this concern. The position of social NGOs is different: their aim is to combat poverty by providing the most cohesive possible social protection system.

It makes sense to me that the Platform of European Social NGOs was invited to express its views at the tripartite meeting in Galway held by the Irish presidency. In effect, the *Make work pay* item on the agenda of that meeting raised the question of the employment and poverty traps. The Platform presented a different dimension from that of the social partners. However, it is important that there should be no ambiguity concerning their respective roles.

### **Complementarity between social dialogue and the European Economic and Social Committee**

The Committee consists of representatives of national organisations, not European organisations. Although many national employers' or workers' organisations represented in the EESC also belong to the European social partners, this does not make them representatives of the European social partners. The members of the EESC contribute their loyalty, expertise and experience, and their skills, but they do not have a mandate from their national organisation, especially if that organisation is a social partner. The concept of social partner implies a binding mandate. However, the Treaty is clear on this: *"The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties ..."* (third paragraph of Article 258). This is what makes the ESC different from a social dialogue forum, in which the social partners may only act on instructions and where the conclusions are binding on their organisation.

This should not rule out areas of complementarity. For instance, the Committee receives referrals on matters that are also submitted to the social partners. An excellent recent example of complementarity is the report drawn up by **Mr Piette**, a Belgian member of Group II, on European works councils. The opinion outlines the issue, but in no way attempts to pre-empt or steer the discussions between the social partners or to advise them. Once again, it is important to avoid confusion between the different roles.

### **Complementarity between the EESC and NGOs**

The EESC has members who are representatives of national NGOs that are affiliated with European NGOs, without representing them. There is scope for complementarity here that is little used, if at all. As the open method of coordination is increasingly applied to the social sphere – especially to issues such as social cohesion, pensions and health care – social NGOs are being consulted more and more by European institutions such as the EESC. It therefore seems important to me that the EESC should be duly informed of NGOs' views and be able to profit from their expertise.

Why not go beyond ad hoc cooperation and contacts and set up a liaison body with a broader and more creative approach to cooperation possibilities? Such a forum would allow mutual briefing on respective priorities and programmes, without affecting the autonomy of either side. The initiative would therefore have to be absolutely unambiguous. The liaison body would not speak on behalf of the NGOs represented in it. By the same token, it would not influence the opinions prepared by the EESC sections. It would not be an EESC consultative commission.