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EUROCADRES view on European Social Agenda in the field of labour market, social affairs and equality

There are several trends which affect the EU policy in the field of social dimension. Globalisation, the strongly raising skill levels of employees, the intensification of structural changes in the labour market, the aging of the population in Europe and the request to “greening” of the economy linked, for instance, to the climate change are among the most important trends.

The share and number of professional and managerial staff will continuously increase in Europe. This is a fact that cannot be neglected in the context of social dimension. The needs of professionals in the labour market have to be born in mind.

EU has to be active also in the social field. Europe needs economic, but also social initiatives: Social Agenda.

Against this background, the *Eurocadres* finds it important that the following ideas will be explored in the context of the European Social Dimension and the Social Agenda. This list is not exhaustive, but presents some key proposals.

1. Labour law and labour rights

Inclusion of professional and managerial staff to the scope of the working time directive

The revision of the WTD has to offer enough protection for all workers, including P&MS. The derogation for managers and other autonomous workers in the article 17.1 in the working time directive is very problematic. The definition of these workers is too wide and a number of employees do not have sufficient working time protection. Derogations, such as opt-out, are not acceptable and on-call work has to be defined as work.

Legal instrument on competition clauses

Competition clauses have become too restrictive. In many cases, their conditions are disproportionate and they constitute an obstacle for free movement. The Social Partners' document on "Key challenges facing European labour markets" in 2007 raised this matter in the recommendations: "Address non-competitive clauses and practices in order to promote voluntary mobility of workers". A legal instrument is needed to render these clauses more proportionate.

Harmonisation of EU directives on workers' information and consultation and evaluation of EWC directive

Their content and procedures differ from each other. A process of harmonisation could be launched. Alongside a general harmonisation process, it is indispensable to develop further the EWC directive. It should be evaluated and later on revised.

Legal initiative on economically dependent self-employed workers

Many of economically dependent self-employed workers are in a vulnerable position. They are dependent on a single principal client-employer for their source of income. A better protection is needed and clear rules have to be established for these workers. The establishment of a general definition of employed persons at the EU level and a series of core common rights, among other things, are needed.

Revision of posting of workers directive

This directive and not only its implementation should be revised in order to strengthen the respect of fundamental rights and to facilitate the free movement of workers. It must be clear that it is a question of minimum level (and not a maximum level) safety directive. Equal treatment for equal work is a key principle.

Rules for transnational trade union rights (strike, to organise sympathy actions) and joint liability

The rules for transnational trade union rights has to be created as a natural continuation of Viking case from the European Court of Justice, among the others. Joint liability has been a part of Employers' Sanction directive in immigration matters. A general European wide joint liability should be explored.

Commission communication on Charter on Fundamental Rights and EU accession to European Convention on Human Rights.

A communication should be issued as regards the consequences of legally binding Charter on Fundamental Rights, how the Charter could be and should be used, what are the effects of opt-outs etc. In addition, the EUs accession to European Convention on Human Rights should take place as soon as possible and without large reservations.

Directive on workers' data protection

Workers' data protection is not at the satisfactory level in many Member States and as a transnational issue (for instance, delivery of health information) it is growing in importance. P&MS groups are knowledge and data workers. Transfer of employees' data between the EU and the third countries is also a relevant question.

Revision of transparency directive

The EU Transparency Directive plays an important role defining minimum standards for working contracts. There is a need to fill the gaps and to

guarantee more precise standards Europe-wide. It should be reformed so that in all cases the description of the tasks and duties within the working contract must make reference to the appropriate level of the European Qualification Framework. Secondly, the employer should hand out a certificate indicating duration and level according EQF at termination of employment.

2. Equality

Directive or social partners' legally binding agreement on paternal leave

Men should have equal possibilities of taking the leave for child care purposes. The stronger participation of men in child care is also in the interest of women. In view of balancing the parents' child care duties, this initiative would be useful and could improve the equality of both sexes.

Revision of maternal leave, part-time & fixed-term work directives

These Social Partners' agreements implemented through directive should be modified in the light of case law and the experiences. The collectivisation of individual claims should be raised as well in this context. An individual employee may not have the knowledge to proceed complaints, but the trade union has.

A strong roadmap for equality between men and women

The Commission roadmap for equality, its implementation report, evaluation and follow-up proposals has to be strong enough to be able to improve the situation. Particular attention should be paid to equal pay questions.

Pioneer work in the area of men's' equality issues

Make men's' equality issues and problems a new priority area and prepare the EU's first male equality programme. Men, for instance, willing to take care of their children, are often discriminated at work.

3. Free movement

Fifth freedom of movement for all professional and managerial staff

The Commission has launched a number of specific sectoral initiatives to facilitate and to tackle the problems of the free movement of researches, the so called fifth freedom project. The fifth freedom should apply to all PMS groups. The European Job Mobility Action Plan 2007-2010 has to be implemented as well.

Portability of supplementary pension rights

The proposal for a directive on supplementary pensions has to be adopted and carefully implemented. P&MS groups, in particular, have supplementary pension rights. Even after the implementation it is important to follow if the supplementary pensions are really portable.

Implementation of Directive on mutual recognition of professional qualifications and European qualifications framework

The difficulties in mutual recognition of professional qualifications are still a great impediment for free movement of workers and, in particular, for P&MS. The framework directive has to be implemented thoroughly and the new possibilities in this directive should be explored carefully (for instance article 15 on minimum requirements and recital on European cards). The European qualifications framework can also provide added-value.

Agreement or directive of workers' financial participation

Financial participation systems - employee ownership of company for which they work through share distribution/grant of options/profit sharing in cash etc. - vary between the member states and employers. Employees are faced with problems when they try to move from one Member State to another due to the fact that these systems are not mobile. The Social Partners should make an agreement on this matter or the Commission put forward a proposal.

Service professions in WTO

As a part of WTO service sector negotiation (where the EU is negotiator and has competence), the mobility of certain professional groups are treated. Architects and their recognition of qualifications is an example. The EU should promote these negotiations and facilitate the movement of professionals also at the global level, bearing in mind the quality of services. However, the recognition of qualifications should be reciprocal and transparent.

Intra-corporate transferees and Remunerated Trainees

The directive on Intra-corporate transferees – common procedures in relation to temporary residence in the EU - is necessary only, if it can provide added-value. Most importantly, the conditions of employment must be governed by host country laws and collective agreements. The proposal on Remunerated Trainees should ensure that they are treated along the same standards as similar trainees in the host country.

Cross-border health care

The European Court of Justice has issued a number of important decisions concerning cross-border health care. On the other side, people are seeking more and more health care in the other member states. Framework rules for mobile patients and health care is needed.

4. Occupational health and safety

Training of managers for occupational health and safety duties

A number of managers (or even professionals) are responsible for occupational health and safety at their work. The employers should have an obligation to organise the training and updating of knowledge (awareness) for persons in charge of working environment questions. They should also have a strong mandate to improve and develop the working environment. The Commission has to issue a binding legislative proposal on this matter as a separate instrument or as part of some other directive.

Directive on psychosocial factors at work

The importance of psychosocial factors at work is growing. Stress, bullying and even violence are a nuisance for too many P&MS employees and they lower considerably the productivity. The agreements of the Social Partners on stress at work and violence are an excellent basis for further actions. The Commission should put forward a directive proposal on psychosocial factors at work.

Right to be disconnected

More and more professionals and managers are subjected to de facto on-call work by receiving emails, telephone calls etc 24 h a day. Nevertheless, also P&MS should have the right to enjoy undisturbed private life and privacy and a balance between work and family life. This would mean that every P&MS employee should be entitled to be disconnected from work-related electronic contacts during his/her rest time. The Commission should issue a binding proposal on this matter.

Directive on muscular-skeletal diseases and improving of work ergonomics

Muscular-skeletal diseases are a major problem in the working life also for the professional and managerial staff. Working with computers, for instance, is exhausting for body. Improving of work ergonomics is not only the matter of health of employees, but also a mean to increase the productivity.

Directive on electromagnetic fields

The transposition of directive on electromagnetic fields was postponed until 2012 and some new studies on this item are expected. Even if the postponement might have been motivated, these kind of new technology dangers of employees deserve particular attention.

REACH regulation and health and safety

This regulation will have a deep impact on chemicals and their use. Consequently, the health and safety must follow this development. The existing directives have to be modified and the new ones issued, when needed.

Legislation on nanotechnologies

Nanotechnology may offer a wide range of possibilities, but it is also a potential risk for health and safety. Professionals are the key employee group developing the future nanotechnology "in good and in bad". It is not clear whether the EU legislation covers all the hazards. Basic ground rules and legal security for society should be developed and adopted.

5. Globalisation

Open and fair trade rules

Open (non protectionist) and fair trade is the best solution to create sustainable jobs. Fair trade rules should be promoted at the EU level with an appropriate instrument. They should underline, in particular, the core labour rights based on ILO conventions. Strengthening of ILO - WTO co-operation, labour aspects in GSP and in bilateral trade agreements are also useful.

Strengthening the role of ILO

Ratification of relevant ILO conventions should be strengthened both within and outside the European Union. Also the EUs contribution to the implementation of the decent work agenda should be ensured.

Social dimension of new EU external affairs administration

The new EU external affairs administration, common representations and actions should promote the social dimension as one of the key issues. It is necessary that the social dimension is raised both in the multilateral context (such as G 20) and in the bilateral relations (with China, Russia, Maghreb etc).

6. Employment and structural funds

Simplification of European Employment Strategy.

The European Employment Strategy is useful, but it is too complicated and with too many objectives. The EMU model with 5 goals would be better, like employment rate, unemployment rate, the share of long-term unemployment, sectoral segregation between men and women plus one indicator describing flexsecurity. Alongside the permanent targets, some changing annual subjects could be treated in the context of this strategy.

Merger of Globalisation Fund into Social Fund

Restructuring due to the globalisation must be facilitated, but a separate fund is not needed. It creates unnecessary and duplicating bureaucracy and links globalisation only to dismissals. We have already the European Social Fund which covers the same measures as the Globalisation Fund. So the Globalisation Fund should be merged into Social Fund and, if necessary, the Social Fund regulation could be modified.

7. Sustainable labour market

EU level guidelines for corporate social responsibility

EU must vigorously promote the CSR. EU strategy and actions in this field have to involve all relevant stakeholders on an equal basis. CSR is a key element in ensuring long term employee and consumer trust.

Commission Communication on "Green Jobs" and low carbon labour market

Climate change including mitigation and adaptation to it will have a number of effects on the labour market. It should be explored what are the consequences and how the new jobs could be created in the low carbon labour market. The Communication should be followed by the action programme (white paper).

Actions for services of general interests

The new Lisbon Treaty includes a legal base and a declaration concerning services of general interests. The quality of services and the idea of services of general interest have to be part of future liberalisation directives and the framework regulation. Concrete actions are needed. In general, liberalisation

may have both positive (lower prices) and negative effects (pressure on employment conditions), depending on the case. Attitude towards liberalisations should be practical, not ideological.

7. Contractual and institutional labour market related co-operation

Legal framework for transnational collective bargaining

After the forthcoming informative document on transnational collective bargaining, the Commission should launch the Social Dialogue consultation process aiming at an agreement implemented through directive or at legislative instrument on this matter. The transnational collective bargaining is increasing, but the practices are varying and the responsibilities are unclear.

Legal framework for bilateral autonomous Social Partners agreements

The implementation of the Social Partners bilateral agreements (distance work, stress at work, and violence at work) has been a confusing experience. The employers do not regard these agreements as binding instruments, but consider them as non-binding resolutions. Thus, the effect of these agreements has been very limited. A number of questions linked to these agreements and their implementation remain open although they are a part of Community *acquis*.

Co-operation between the Social Partners and the European institutions

A deeper co-operation between the Social Partners and the European Institutions is needed:

- 1) fully respecting the independence of the European Central Bank, the Macroeconomic dialogue has to be strengthened,
- 2) in the field of education and internal market, the Commission has to ensure a more systematic consultation of the Social Partners
- 3) periodic meetings between the Social Partners and the environment ministers plus competitiveness ministers would be useful.
- 4) regular and early consultation of the Social Partners in relation to migration questions, including free movement of professionals in the context of WTO.