

# ETUC RESOLUTIONS 2011



EUROPEAN TRADE UNION CONFEDERATION (ETUC)



# ETUC RESOLUTIONS

Adopted by the Executive Committee  
during 2011



EUROPEAN TRADE UNION CONFEDERATION (ETUC)



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**MARCH 2011**

# ETUC RESOLUTION ON RECOMMENDATIONS FOR IMPROVING GENDER BALANCE IN TRADE UNIONS

Adopted by the Executive Committee  
on 9 March 2011

## FROM MEMBERSHIP TO LEADERSHIP: RECOMMENDATIONS FOR IMPROVING GENDER BALANCE IN TRADE UNIONS

### Introduction

Equality between women and men is a founding principle of the European Union and a long standing commitment of the ETUC. A balanced participation by women and men in society's major political and economic decisions is a key element to developing real democracy and it has also proved to be an essential factor contributing to economic growth.

Despite the feminisation of the labour market and the high educational attainments of female students in most of the European countries, women encounter difficulties in achieving roles of responsibility at many levels: in economy, politics and often also within trade unions.

The reasons for the under-representation of women in power and decision-making are structural and multifaceted. They include gender stereotypes, discrimination and segregation in education and on the labour market. There is also a lack of policies to make it easier for women and men to strike the right work-life balance, and the unequal distribution of domestic and family chores. Lastly the political environment, corporate culture - also within the trade union movement - and media attitudes are still unfavourable to women.



## **Taking stock of ETUC policy measures and activities to ensure gender balance**

The under-representation of women in leadership positions and decision making structures has been a matter of concern for the ETUC for many years. Eliminating the gender representation gap was established as one of the objectives under the ETUC's Equality Action Plans agreed in 1999 and 2003, while the ETUC's Mid-Term Review recommended in 2006 that unions should provide comparable data on women's participation and representation and put in place measures to enable women to take up leadership positions. Similarly a priority to improve the role of women in decision-making exists under the Framework of Actions on Gender Equality agreed by the European social partners in 2005. At the Seville Congress in 2007 a Charter on Gender Mainstreaming was adopted with requirements for national affiliates and European Industry Federations to urgently take action to improve their performance in the forthcoming years to close the representation gap between women and men at all levels. Specific recommendations were provided of measures to close the gender gap, including the obligation to provide statistics on the membership and representation in decision-making bodies. The Charter on Gender Mainstreaming stated that affiliates' performance in improving women's representation in leadership roles and positions had to be assessed prior to the ETUC Congress in 2011 and adequate measures put forward.

Since the Seville Congress, gender disaggregated data on affiliates' membership and decision making positions are collected by the Secretariat through the «8th of March Survey» and its outcomes are presented and regularly discussed by the Women's Committee.

According to the last 8th March Survey, women represent about 44% of the ETUC membership<sup>1</sup>. The following trends emerge from the survey results of the last 4 years:

- Since the first survey was carried out, women have been crucial to sustaining trade union membership levels: in particular, the surveys from

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<sup>1</sup> For more information see: ETUC Report of 8th of March Survey 2011.

2008 and 2009 show a general trend of a growing number of women in the membership of trade unions, even though there has been a reduction in trade union membership overall.

- The surveys carried out in 2008, 2009 and 2010 show a persistent low level of women in trade union leadership positions (President, Vice-President, General Secretary, Deputy General Secretary), with little progress made between 2008 and 2010. Women are more likely to be in 'deputy' positions.
- As to the ETUC standing committees, only 17% of the full members of the ETUC Executive are women. This figure is even lower for the Steering Committee where 13% are women. However, gender balance has been taken into account within the ETUC Secretariat.
- The 2010 survey did find that most of the unions had adopted concrete measures to improve gender balance, such as quotas or reserved seats, , although in practice many unions had not implemented policies fully.
- Some unions, particularly those representing women in the female dominated sectors of the economy, have achieved a better gender balance in their decision-making structures.

The survey also identified barriers that prevent women from taking up leadership positions. Some of these barriers are structural and can be tackled at organisational level while others are more related to individuals' behaviours. Structural barriers include negative stereotypes within organisations that work against women's participation; the fact that in some cases union structures replicate women's disadvantaged labour market position; the organisation of meetings and time constraints that negatively impact on women's possibilities for their full participation. Other obstacles that were mentioned include the fact that women hold themselves back and often lack the confidence to push themselves forward for leadership roles, that they lack the knowledge about union structures and how to get into decision-making positions.

It is against this background that the ETUC conducted the project "From Membership to Leadership: Advancing Women in Trade Unions" during 2010. The aim of the project was to discuss how to improve gender balance in trade unions. The ETUC organised one conference in Luxembourg in March 2010 and a follow-up workshop in Berlin in October 2010 to

address this issue. One of the outcomes was a resource guide to support efforts to achieve gender balance in trade unions<sup>2</sup>.

A strong case for a renewed and strategic approach to achieving gender balance in trade unions' decision-making and leadership structures as a basis for union democracy and for realising gender equality at societal, economic and political levels was made at both events.

Gender balance in trade unions is vital in order to have:

- Structures that genuinely reflect the diversity of the membership;
- A modern image that is representative of women's interests and needs and that is in touch and relevant with its membership;
- A stronger role in fulfilling and implementing women's economic, social and political objectives;
- An approach to gender mainstreaming in decision-making and policy-making processes, and in their representative roles in the wider economy and society.

The importance of achieving gender balance in collective bargaining teams was also confirmed. The arguments put forward were that:

- Gender balanced collective bargaining teams are a matter of social democracy and a basic value of the trade union movement;
- The involvement of women and men and at all levels of collective bargaining enables new perspectives to be integrated into the bargaining agenda, by drawing on women's experiences, opinions, knowledge and skills;
- Gender balanced collective bargaining teams also enable new styles and new approaches to collective bargaining methods.

Several ETUC affiliates have good experience with quantified targets and clear rules that have to be observed to achieve at least proportional participation and representation, while other members still have to develop coherent measures in order to promote an equal participation of women

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<sup>2</sup> See: <http://www.etuc.org/r/1368>

both at the decision-making levels of the trade unions as well as in bargaining units.

An equal division of power between women and men can be achieved only by acting at all levels, involving all stakeholders and focusing on the factors that combine to maintain gender imbalance.

A combination of measures is needed, and a much more coherent and focussed approach should be promoted by the ETUC and its affiliates. Improving gender balance in union leadership and decision-making structures remains a fundamental challenge for the trade union movement in the next years and the following recommendations have been developed to meet this challenge.

## **The recommendations**

The recommendations for improving gender balance in the ETUC and its affiliates have been drafted on the basis of the findings of the 8th of March Survey of 2010, the cases and discussions held at the Luxembourg Conference and the conclusions of the policy workshop in Berlin. In addition, they have benefited from previous ETUC gender equality action plans as well as the Charter on gender mainstreaming, especially with respect to those provisions addressing the issue of gender balance.

The recommendations were finally discussed and adopted by the ETUC Women's Committee on 14 December 2010.

With regard to the structure of the recommendations, they are divided into two parts: one deals with recommendations addressed to the ETUC itself and the other is aimed at ETUC affiliates (national confederations and European Industry Federations). They are not the same but follow a similar pattern to tackle remaining challenges to achieve gender balance both within the organization and its policies. Each section is further divided into actions to be taken prior to and after the next ETUC Congress that will take place in Athens in May 2011.



## RECOMMENDATIONS FOR THE ETUC

### Before the 2011 Congress the ETUC should:

- 1/ Highlight gender equality issues in the Congress Preparatory Committee discussions. Ensure that the Congress preparatory documents, debates and speakers are gender mainstreamed. Ensure that national delegations at the Congress are gender balanced;
- 2/ Gender mainstream Congress final document in all its parts and make sure that it contains a specific part dealing with equality between women and men with recommendations for ETUC work in this field for the 4 years to come;
- 3/ Make the argument for gender balance a core union priority by presenting the results of the project "From membership to leadership", by engaging women and men in the debates and seeking agreement from affiliates to ensure a gender balanced representation, and by adopting concrete measures in this regard;
- 4/ Address gender balance at the level of the Executive Committee. Consider introducing quantified objectives to achieve gender balance such as an anti-discriminatory provision that says that each gender should be represented between 40% and 60% in ETUC statutory bodies;
- 5/ Gender disaggregate the composition of the following ETUC decision-making bodies: Congress of 2007; Executive Committee; Steering Committee and Secretariat. Figures should be made available in order to evaluate whether or not there is an adequate gender balance therein;
- 6/ Draft a policy instrument for the 2011-2015 period setting out requirements, actions and targets for gender balance for the European and national level trade union decision-making structures. The instrument should draw lessons from the implementation of the Gender Mainstreaming Charter and include:

- A time frame, monitoring and assessment system for the next Congress period, providing an integrated and multi-faceted approach to achieving gender balance;
- Guidelines that build on the content of the ETUC's Charter on Gender Mainstreaming, with practical tools to implement gender mainstreaming;
- Appropriate measures to reward good performance, such as a trade union "gender equality" award to be given at each Congress;
- Appropriate sanctions to discourage poor performance.
- The policy instrument should be revised every year by the Executive Committee to assess its implementation at appropriate levels.

**After the 2011 Congress the ETUC should:**

- 7/ Each gender should be represented between 40% and 60% in ETUC decision-making bodies, therefore it is essential to regularly monitor the gender statistics as well as the composition of: Congress of Athens, mid-term conference, Executive Committee, Steering Committee and Secretariat. The Executive and the Womens' Committee should be regularly informed of the data collected;
- 8/ Ensure balanced participation of female trade unionists in ETUC meetings both as speakers and participants;
- 9/ Set up a mechanism to gender mainstream ETUC policies. As a first step it is recommended to introduce a policy that every document presented at the Executive Committee as well as the Congress contains a gender impact assessment and indicate if and how the gender perspective has been included. The ETUC should ensure that its decision making bodies have knowledge about and experience in equality between women and men and gender mainstreaming.
- 10/ Carry out an internal equality audit to identify the barriers that exist for gender progression within the ETUC as an organization itself;
- 11/ Develop, through the ETUI (European Trade Union Institute for Research, Education and Health and Safety):

- Training programmes that foresee gender parity participation. ETUI current young leaders programme is key in this respect and should also foresee a specific part on gender equality;
- A programme of tutorship and mentoring for young female leaders;
- Training manuals for trainers on gender mainstreaming and gender balance;
- A study, to be issued at least every two years, on the 'state of the art' of barriers and measures adopted by unions to improve gender equality in the trade union movement and at work place level.

The ETUI will be invited to regularly inform the Women's' Committee of how gender mainstreaming is applied in its activities and programme;

12/ Continue to run the 8th of March Survey and work closely with those members that still do not collect gender disaggregate data of their membership and/or decision making bodies and examine together with them the solutions to overcome it. Draft a template for gender disaggregated data collection that can be used by national and EU affiliates;

13/ Consider the following issues as new ETUC publications:

- Situation of women in the crisis and after the crisis;
- A leaflet with 10 steps to achieve gender balance.

14/ Address the image and culture of unions, looking at its visual outputs;

15/ Reinforce the exchange of practices and views between the ETUC Youth Committee and Women's' Committee;

16/ Provide adequate staff levels and resources to follow-up the gender equality policies within the ETUC and adopt a gender budget to cover campaigns and activities aiming at promoting gender balance and gender equality;

17/ Develop a mechanism, through the ETUC Executive Committee and in cooperation with the Women's Committee, for monitoring and

reporting on the implementation of the above recommendations.  
Evaluate progress achieved at the mid-term conference;

18/ Carry out a gender mainstreaming audit of the ETUC 2011-2015 activity report to be submitted to the 2015 Congress with a twofold objective:

- To make sure that the activity report is appropriately gender mainstreamed in all its parts;
- To identify areas where a gender perspective needs to be further developed in all ETUC policies and structures.



## **RECOMMENDATIONS FOR AFFILIATED ORGANISATIONS (NATIONAL CONFEDERATIONS AND EUROPEAN INDUSTRY FEDERATIONS)**

**For the Congress ETUC members should...**

- 1/ Make the argument for gender balance as a core union priority and seek to ensure a balanced gender representation by adopting concrete measures in this regard;
- 2/ Support ETUC actions to improve gender balance and to overcome barriers to achieve this;
- 3/ Monitor and gender mainstream the work of the Congress Preparatory Committee, by working together with the national/EIF representative taking part in its work;
- 4/ Ensure a gender balanced delegation at the ETUC Congress;

**After the Congress the ETUC members should...**

- 5/ Develop an internal action plan on gender balance at national/sectoral level and ensure that this is monitored regularly and endorsed by affiliates;



- 6/ Examine the gender balance composition of organisations' existing governing bodies and evolution over the last years. On this basis discuss how the organisation can introduce changes in the statutes, adopt targets and actions for balanced gender representation;
- 7/ Ensure that systems of collecting disaggregated data on gender representation at all levels of the union are in place, and that this is reviewed on an annual basis;
- 8/ Contribute to the 8th of March Survey by providing the ETUC with all the necessary data. Failure to do so will be publicly addressed at the Executive Committee and the next Congress;
- 9/ Work through the organisation's training departments and/or national training organisations to put in place measures for the training and mentoring of women in order to prepare women for leadership and decision-making roles;
- 10/ Put in place gender audits, mentoring programmes and other forms of support for women to take up leadership roles in unions;
- 11/ Produce guidelines on gender mainstreaming with practical tools for their implementation, in areas such as: collective bargaining; organising; social dialogue, policy making etc.;
- 12/ Ensure that the organisation promotes gender diversity through its own internal human resources;
- 13/ Carry out a gender mainstreaming audit in order to identify areas where a gender perspective needs to be further developed in union policies and structures;
- 14/ Address the image and culture of unions, looking at its visual outputs;
- 15/ Provide adequate staff levels and resources to follow-up the gender equality policies within the organization and adopt a gender budget to cover campaigns and activity aiming at promoting gender balance and gender equality;

- 16/ Consider the appointment of somebody at the political leadership level to be in charge for monitoring gender mainstreaming within the organization. The person would preferably not be the same person as the one being responsible for gender equality;
- 17/ Promote a “sense of ownership” of gender mainstreaming and gender balance instruments and shared responsibility among all relevant trade union actors;
- 18/ Introduce a mechanism for monitoring and reporting on the recommendations listed above;
- 19/ Regularly inform the ETUC of the measures adopted and the improvements achieved.

# ETUC RESOLUTION

## THE WORKING TIME DIRECTIVE: LIMITATION OF WORKING HOURS AND GREATER INFLUENCE OF WORKERS FOR THE BENEFIT OF HEALTHIER WORKING LIVES

**Adopted by the Executive Committee  
on 8-9 March 2011**

ETUC Position on the Communication of the European Commission of 21st December 2010: the second stage of social partners EU level consultation on the revision of the Working Time Directive:

### I

On 21st December 2010 the Commission has adopted a Communication reviewing the Working Time Directive (WTD), which constitutes the second stage of consultation of the EU social partners on the content of the envisaged action at EU level to amend the WTD and to ask the social partners at EU level whether they wish to enter into negotiations. The Commission has made two proposals:

- a/ to focus the review on on-call work or;
- b/ to proceed to a comprehensive review.

At the same time the Commission has eventually made public its implementation report concerning the WTD launched in 2008, as well as the study in support of an impact assessment of further action at EU level regarding the WTD and the evolution of working time organisation. This

report by Deloitte is a valuable one to assess the Commission's proposals in its Communication on the second stage of consultation.

The implementation report shows problems of conformity of national law with the WTD both as regards the different topics and the various Member States. This is a situation which is persisting over the last years.

## II

The 2003/88/EC Directive (revising the original Directive 93/104/EC) which is based on a 'health and safety' legal foundation is a very important element of the EU's social policy acquis. Nevertheless the Directive must be understood as being firmly embedded in a wide range of international standards and fundamental rights (ILO conventions, the European Social Charter, the Charter of Fundamental rights, etc.) which are very much interdependent.

With the entry into force of the Lisbon Treaty, the Charter of Fundamental Rights (CFREU) has become legally binding. Article 31 of the Charter deals with '*fair and just working conditions*'. Accordingly, "***every worker has the right to working conditions which respect his or her health, safety and dignity***". In its second paragraph, it says "***every worker has the right to limitation of maximum working hours, to daily and weekly rest and to an annual period of paid leave***".

The starting point for any debate on the WTD must be the recognition that the EU and all its Member States have a double legal obligation, i.e. to ensure that every worker has a right to limitation of his working hours which is implemented in a way which respects his health, safety and dignity (Article 31 CFREU), and to progressively reduce (long) working hours, while improvements are being maintained (Article 151 TFEU). This provision is also to be interpreted as a non-regression obligation that any new social legislation has to serve this objective.

Moreover, the ETUC draws the attention to the "horizontal clauses", in particular the gender mainstreaming clause (Art. 8 TFEU) and the social clause (Art. 9 TFEU) which is to be read in conjunction with the overall social objectives of the Union enshrined in Art. 3 TEU. The latter requires

aiming at i.e. social progress and high level of protection. Therefore, in defining and implementing its social policies and activities, the Union shall take all those requirements into account. The Commission nevertheless did not feel obliged to take into account the results of the impact assessment or even took an opposite approach.

Also, as mentioned in the preamble of the WTD: "*the improvement of workers' safety and health at work is an objective which should not be subordinated to purely economic considerations*". These obligations give direction to the scope for a 'comprehensive review' of the Directive, which must clearly respect and build on this Community acquis. Any attempt to extend working time practices, involving long, irregular and unhealthy hours for business and/or financial reasons must be considered to be not in conformity with these legal obligations.

The rationale for prohibiting excessive working time is constantly reinforced by new research. The Working Time Directive remains a vital piece of health and safety legislation, which protects workers from some very real risks in the modern world of work. Long working hours often reach far beyond the individual worker, impacting on their work colleagues, passers-by, friends and families and the upbringing of their children. Of course, the health problems caused by excessive working time also have an impact on each member states' social security and health systems.

## ETUC ASSESSMENT OF THE COMMISSION PROPOSALS



The ETUC regrets that the concerns firmly expressed in the first phase of the consultation have not sufficiently been taken into consideration by the Commission when it submitted its policy options (see below). Further points have not at all taken up, such as the ETUC demand to clarify the definition of "worker" and the development of guidelines to prevent circumvention of working time rules by bogus-self employment. The ETUC makes it very clear that it is crucial to legislate as well on those points in a review exercise wishing to make the Working Time Directive a modern legislation, just as well as the aspect of consultation of workers on working time issues.

**Maintaining the opt-out, extending the reference periods and weakening the position on on-call time and compensatory rest would contradict health and safety principles that are based on solid evidence and research.**

## **IV**

The most worrying proposals concern maintaining the opt-out, the extension of the reference periods, as well as the counting of on-call time. Protection against long and exhausting working hours and patterns is important to protect the individual worker and provide him/her with fair and just working conditions.

Again, when making its proposals, the Commission did not take into consideration the findings of the impact assessment which proposes *“both would suggest a limitation of working hours followed by an adequate period of rest. This should not be postponed in order to avoid any accumulation of fatigue or detrimental effects to safety, health and work-life balance.”*

The Directive in its present form is already a very flexible tool, which gives enough scope to the social partners on all levels in order to negotiate the needed solutions. Trade unions all over Europe have always shown their readiness to negotiate on working time.

- **Opt-out:** The Commission argues that the recourse to the opt-out reveals a wide and swift proliferation and that a solution to the problem consists in reducing the need of using it. It wishes to reinforce the protection and to install a mechanism for an effective periodic evaluation of the opt-out.

The impact assessment is very clear, as the message reads: *“In any event, extending working hours beyond the limits of the current WTD would result in an increased risk of health impairments – while a reduction of working hours should lead to a reduction in health problems.”*

The impact assessment even goes further in making the following hypothesis *“... although one that is well founded. It can thus be concluded that even for those working hours “voluntarily”, the risk of health problems will increase as the numbers of hours they work goes up, as is the case with self-employed workers”*.

Furthermore the study clearly says that *“work-life balance begins to decline substantially beyond 40 hours/week”*. The conclusion drawn in the impact assessment goes as follows: *“Combining this (5-day week) with the evidence on daily working time and safety yields a recommendation of 5 x 8 = 40 h per week, which would be in agreement with the limit indicated by the effects on work-life balance.”*

On this basis the Commission could have proposed not only the end of the opt-out but also the lowering of the maximum working time per week to 40 hours/week. It is not understandable that on the basis of such an assessment, the Commission can persist in proposing to keep the individual opt-out, thereby deliberately putting at risk the health of the EU workers. Keeping the opt-out instead infringes the fundamental rights of workers in the EU to working conditions which respect his or her health, safety and dignity and his/her right to limitation of maximum working hours as guaranteed in Art. 31 CFREU as explained above.

The ETUC requests to put an end to the opt-out, as the individual opt-out is not compatible with the basic principles of health and safety protection. Nor is it a sufficient option to reinforce the protection, as the impact assessment has revealed that the enforcement is not too efficient in practice.

Furthermore is the opt-out in contradiction with Art.2 of the European Social Charter. This became explicit in two decisions of the European Committee of social rights concerning France on a French version of the opt-out. The Committee stated clearly: when member states of the European Union agree on binding measures in the form of directives which relate to matters within the remit of the European Social Charter, they should –both when preparing the text in question and when transposing it into national law– take full account of the commitments they have taken upon ratifying the European Social Charter.

- **Reference periods:** The proposal by the Commission to extend the reference periods is simply not acceptable. In the Commission's proposals, the reference period can be either longer than 12 months following

an agreement between the social partners, or it can be restricted to 12 months by legislation, after consultation of the social partners for the sectors or Member States where “opt-out” is not applied.

The Commission opens up the possibility of a reference period of a maximum of 12 months by legislation after simple consultation of the social partners. This would leave workers without any effective safeguards.

Derogations from the four-month rule, when inevitable, must be cast in such a form as that they promote negotiated solutions between sufficiently strong bargaining parties which can guarantee a balanced outcome. Therefore collective bargaining needs to be the pre-condition for derogations.

The question of which sector could possibly need reference periods longer than one year is still unanswered. Collective bargaining guarantees that real needs in specific situations can be detected and solved.

The impact assessment says the findings *“would also argue for short reference periods, in order to avoid an undue accumulation of negative effects during certain times within the reference period.”*

It confirms the ETUC point of view that the “average 48 hour maximum” is already a very flexible concept and a reference period of 4 months offers a wide scope for today’s needs of companies and workers.

It is the cumulative effect of these different changes which makes the Commission’s proposal for longer reference periods so hazardous, since all safeguards are being downgraded at the same time. Neither the safeguard represented by collective agreements for the negotiation of the reference period between social partners, nor the restriction by legislation of the annual working hours to a lower limit is retained. Longer reference periods without adequate safeguards being collective agreements can lead to workers suffering one-sidedly imposed very long and irregular working time patterns, which would be completely unacceptable.



- **On-call time:** It is the first time in the revision process that the Commission goes some way towards aligning its proposals to the case law of the ECJ on on-call time being working time. The Commission considers on-call time as working time, and avoids any distinction between “active” and “passive” working time. The Commission’s tabled compromise however consists in counting the periods of on-call time differently, subject to defined maximum weekly limits and to the condition that the workers concerned are afforded appropriate protection.

The ETUC cannot accept any proposal to count on-call time differently. The ETUC has always stressed that on-call time has to be recognised as working time and that no difference can be made between “active” and “passive” on-call time. Therefore all time spent on-call needs to be working time and counted as such. This is in line with the ECJ judgment in *Dellas* where the Court explicitly states that counting on-call time as a percentage of normal working time is contrary to the Directive: “Community law requires those hours of presence to be counted in their entirety as working time”.

- **Paid annual leave:** After the ECJ *Schultz-Hoff* and *Stringer* decisions, the Commission has opened the way for the Member States to set appropriate ceilings to the accrued paid annual leave entitlements. And this despite the fact that the Court argued that the Directive does not allow Member States to exclude the very existence of a right expressly granted to all workers and that national law cannot extinguish the right to leave at the end of the leave year and/or of a carry-over period, even where the worker has been on sick leave for the whole leave year, if the worker could not exercise his right to paid annual leave.

The ETUC is of the opinion that the acquired right by a worker to paid annual leave cannot be cut by a ceiling, as this is a social right of every worker and being on sick leave means only that the worker could not exercise this right. The entitlements do persist and they cannot be limited by a determined ceiling. The ETUC calls for a codification of the ECJ case-law as well on this point.

**Some of the Commission's proposals are a step in the right direction, but further improvements are still needed**

- **Scope and specific sectoral problems:** It is to be welcomed that the Commission considers that all workers fall under the scope of the Directive. And the quest for greater harmonisation of working time rules for all road transport mobile workers is of course to be supported under the special Directive 2002/15/EC. The Commission needs to ensure that all workers in all industrial sectors and occupations are protected by working time legislation, and that they can enforce their rights. Therefore the idea of the Commission to treat volunteer fire-fighters differently cannot be supported, as their work needs to be considered working time when they are called in.
- **Compensatory rest:** The Commission presents the pros and cons of the compensatory rest to be taken directly after the shift, but does not make any concrete proposal on how to solve this question at the European level.

*The impact assessment argues that "All this would caution against an extension of reference periods for calculation average work hours (or rest periods) since longer reference periods allow for a greater accumulation of work within certain time spans within the reference period and thus for an accumulation/increase of fatigue, instead of avoiding negative effects like fatigue right from the outset by providing adequate work-rest dynamics. (...) support the theoretical and empirical long- and well-founded ergonomics concept, implying that rest periods should not be postponed, but taken as early as possible in order to avoid the development and accumulation of fatigue or other impairing effects."*

The notion of "equivalent compensatory rest" in the WTD is fundamental to the ETUC. Compensatory rest should not be postponed. It is very surprising that the Commission did not take the impact assessment into consideration by following here too the ECJ case law stating that compensatory rest should be granted immediately. Again the ETUC claims the codification of the ECJ case law concerning on-call time.

- **Weekly rest - Sunday work:** Related to the question of compensatory rest is the problem of working at “unusual” times, such as Sundays, Saturdays and during evenings, such times which are usually devoted to rest and not to work. The impact assessment underlines that *“working at unusual times is associated with impairments to safety, health, well being and work-life balance. The (albeit rather scarce) evidence available, clearly shows that those who work on Sundays display a substantially increased risk (about 30%) of causing/suffering an accident, leading to work-time lost. The results therefore demonstrate at the same time that work on Saturdays is also substantially associated with an increased accident risk. This leads to the conclusion that both weekend days have a special function of recuperation from work-related demands which conflicts with working during the weekend. It is worth mentioning that these effects do not require regular work on Sundays but that the effects can already be observed with occasional work on Sundays or just one Sunday per month. And this in spite of the fact that work on Sundays must normally be compensated for by a day off during the week (...). Sundays thus obviously have a special function for recovery, which cannot be compensated for by a different day off.”*

Those findings make it very clear that the recovery of the worker weekly rest on the weekend and especially on Sunday cannot be replaced by any other day off.

- **Work-life balance:** The proposals concerning work-life balance are much too weak. Still the Directive does not take the gender aspect into consideration. Working time arrangements must not undermine Art. 33 par.1 CFREU on family and professional life, which provides i.e. that the family shall enjoy legal, economic and social protection and contribute to its achievement.

A step to reduce the negative impact of irregular and unpredictable working hours would certainly consist in having a provision ensuring that workers are informed *well in advance of substantial changes* in their working time patterns, though this is not specific enough. The definition of “well in advance” and “substantial changes” is important. The impact assessment shows even a risk for the health and

psychosocial complaints when *"flexibly arranged working times are unreliable, e.g. because of frequent rescheduling, emergencies or work on call"*.

Another idea brought forward is to include a provision ensuring that the employer would have to examine the workers' request for changes in working time and justify any refusal. This proposal does not go far enough. A worker as a party to an employment contract has always the possibility to request a change in working time. What would be needed is the right for the worker to ask for changes in his/her working time or working time distribution. Even the impact assessment refers to such a right. Granting workers the right to request an adaptation of their working hours to their needs does not only recognise the importance to allow workers the right to influence the schedule of their working hours, it also provides them with an opportunity to negotiate a better outcome.

- **Autonomous workers:** The ETUC asks for the derogation for autonomous workers to be further limited, to only chief executive officers (or persons in comparable positions), senior managers directly subordinated to them and persons who are directly appointed by the board of directors.
- **Multiple contracts:** The Commission clearly states that the working time limit referred to in the Directive applies "per worker". But here too the conclusions are not far-reaching enough. Though it is a very positive first step to say that the working time of a worker with several contracts with the same employer needs to be calculated on a per-worker basis, this is a principle which also needs to be applied when we speak about contracts with different employers. Otherwise, the health and safety objectives of the Directive cannot be met.

## **ETUC VIEWS ON THE QUESTIONS BY THE COMMISSION**

The ETUC has carefully built up its position concerning the Working Time Directive over the last decade, taking full account of the wealth of evidence that justifies the need to limit working time.

**The ETUC is of the opinion that TU concerns have not sufficiently been addressed by the Commission and that furthermore the Commission has not lived up to its obligation to take into account the findings of the impact assessment.**

Backed by the impact assessment the Commission should:

- End the opt-out from the 48 hour limit on weekly working time;
- Keep the current reference periods in place;
- Codify the ECJ jurisprudence on on-call time in the workplace;
- Codify for all workers that the Directive has to apply per worker.

The ETUC would enter into negotiations with the social partners at European level with a mandate which had the following objectives:

- a comprehensive revision of the WTD which can serve the health and safety of workers;
- the end or phasing-out of the individual opt-out in the near future;
- keeping the status quo concerning reference periods;
- and ensuring compliance of the ECJ judgments on on-call time and compensatory rest.

# ETUC RESOLUTION EU FINANCIAL PERSPECTIVES AFTER 2013

Adopted by the Executive Committee  
on 8-9 March 2011

## 1/ Introduction

On 19 October 2010, the Commission issued a Communication on “The EU Budget Review” (COM(2010)700 final), thereby initiating the debate on “the architecture and purpose of the EU budget” after 2013. In June 2011, the Commission will propose a new budget framework for the period after 2013, which will be accompanied by legislative proposals concerning the Structural Funds, including the European Social Fund.

The EU budget should be one of the key instruments for the implementation of the EU priorities: the new policy framework for the decade to come, namely the “Europe 2020” Strategy, was adopted by the European Council on 17 June 2010.

On the other hand, the Commission’s Fifth Report on Economic, Social and Territorial Cohesion, published on 10 November 2010, sets out the options for the future cohesion policy within this framework. ETUC apprised the Commission of its position on the matter on 14 January 2011.

To this respect we want to underline that since then in depth changes have taken place and continue to take place in most of the EU Member States following the austerity measures which have been adopted and whose implementation implies attacks to the systems of collective bargaining too. We have to note that the European economy is in a difficult situation. The economic recovery remains fragile and subject to various downward risk factors such as excessive speculation, instability of the markets, job cuts,

rise of unemployment, wage stagnation, wage policy and the current debt reduction process in the private sector in several countries. Furthermore, faced with public deficits in Europe that are two times higher than the Maastricht criteria, economic decision makers are keen to return to a pre-crisis approach which means the reduction of the public deficits as well as of the role of the state and of the public services, in the hope that investments in the private sector follow automatically.

ETUC and its member organizations keep on being drastically opposed to the fact that the EU has taken measures to save the banks and now imposes austerity measures whose price is being paid by the European workers and citizens. We consider that it is most than urgent to reinforce the Welfare State's key role on which our European Social Model is based with a view to reinforcing Solidarity between the EU Member States and Peoples, as reaffirmed in the Lisbon Treaty.

We want to remind that the Lisbon Treaty confers more tasks and responsibilities to the EU in this field. The EU budget must reflect as much.

It is in this framework that the ETUC wants to remind its priorities concerning the structure of the EU budget after 2013 and their appropriate financing.

For ETUC, the EU budget must invest in people, economic and social cohesion and sustainable development, and must consequently be refocused on these priorities while doing away with and redirecting funding that goes counter to the EU's social and environmental objectives. The EU budget must give the EU the means and resources to look and act beyond its borders and to be able to assume its responsibilities in that respect.

We are convinced that these objectives can be achieved only through an in-depth reform of the EU budget.

To this respect ETUC deeply regrets that political attention has hitherto been focused mainly on the dimension of the different items/chapters of the future EU budget. We believe that it is essential to decide first on the political priorities for which the EU budgets are to be used and then to decide on the amount allocated corresponding to each Item/chapter for

that purpose. Consequently the position of some Member States aiming at freezing the EU budget and reducing the amount of the Structural Funds is more than worrying.

## **2/ ETUC Priorities concerning the “Architecture” of the EU budget after 2013**

The Commission underlines that the budget, “in its structure as well as in its balance” has to reflect the EU political priorities which could lead to an articulation around the “EU 2020 Strategy”. In order to be credible, this choice means that adequate European budgets have to be allowed for all the initiatives, namely the main projects. The mere coordination, even strengthened, won’t be enough to guarantee the success of this choice.

### **“EU 2020” STRATEGY**

The European Council decided that the Structural Funds were the financial instruments needed to implement the “Europe 2020” Strategy. In this context, we consider that the European Social Fund is the principal instrument to sustain the implementation of the **European Employment Strategy**, and must remain so.

#### **2.1/ The economic, social and territorial cohesion must continue to be at the centre of the “Europe 2020” Strategy**

**The Structural Funds** are the key instruments for reducing the gap between the development levels of the regions and the lag of the less favoured regions under a strategy geared to the priorities of the “EU 2020” Strategy “smart, sustainable and inclusive” growth in the Member States, regions and territories.

ETUC considers that lessons must be drawn from the use of the Structural Funds to contribute to the economic recovery in the European Union. More specifically, the European Council’s decision taken in 2009 concerning the contribution of the cohesion policy to the economic recovery is a positive sign. The Structural Funds, which account for more than one third of the EU’s budget, may in fact constitute an instrument of



financing in order to take up the challenges in the short, medium and long term.

In the same vein, the principle of additionality must be included and specified further to make sure that funding from the Structural Funds supplements but does not replace national public funds.

The Structural Funds, which represent more than one third of the EU budget, are the financial instruments for a relevant active economic, social and territorial cohesion policy, whilst making a major contribution to the "Europe 2020" Strategy. We believe that they must not only remain, but be reinforced, particularly the ESF, which has remained the "poor relation."

**2.2/ In this context, the *European Social Fund* must be the principal instrument for the implementation of the *European Employment Strategy* that covers the objectives which fall essentially under the pillar known as "inclusive growth – a high-employment economy delivering economic, social and territorial cohesion," as well as the relevant areas and objectives pertaining to employment, skills and the fight against poverty. In very concrete terms, it is a matter of promoting a high-level strategy for more and better quality jobs.**

The system of governance of the Funds has to be revised, namely ensuring that the respect of the principles and conventions in the social field (ILO fundamental rights, human rights, etc) and the principles and conventions in the environmental field, be a previous obligation for approving the financing of projects.

Moreover, the Structural Funds must be geared to a greater extent to achieving the objectives of the pillar known as "smart growth – developing an economy based on knowledge and innovation," and in particular, "Youth on the move."

Needless to say, given the current economic crisis, the European Employment Strategy must feature again at the top of the EU's priorities and more funds must be released to create more and better jobs.

On the other hand, to optimise the use of the Structural Funds, ties between the ESF and the ERDF must be strengthened, as has already been the case in the context of the current economic crisis, as evidenced by the measures taken recently in Germany and in Bulgaria.

It is also essential to ensure better coordination between the cohesion policy and the other EU policies, in particular the transport policy, the common agricultural policy, the energy policy and the climate policy, and consequently, the adequate allocation of corresponding available funds. It is also necessary to ensure and reinforce the connection between the different economic and social policies, as well as between the different budget lines.

In the same vein, ETUC is of opinion that the measures provided under the European Globalisation Adjustment Fund (EGF) must be included in the ESF. Furthermore, it is essential to ensure coherence between “curative” measures due to restructuring covered by the EGF, and “preventive” measures provided by the ESF. It is moreover just as important to ensure coherence between the principles of the two Funds, especially as regards the partnership and in particular the participation of the trade unions.

The priorities of the EFS should be expanded to finance the protection of workers affected by the measures taken to fight climate change, which would reduce the negative socio-economic consequences of the latter by providing alternatives for such workers in terms of employment and better income protection.

*2.3/ As regards the financing and management of climate change, ETUC believes that in order to achieve the objectives set in the pillar known as “sustainable growth – promoting a more resource efficient, greener and more competitive economy,” we will need government intervention as well as a range of more efficient public and private instruments.*

The instruments to be used by the public authorities, such as aid for R&D, aid for the demonstration and deployment of technologies, (foreseeable and adapted) aid for investment granted to energy-intensive industries, standardisation, regulation, public investments, the dissemination of technologies in the South, sound management of skills and “green” jobs resulting from education on the matter, and training programmes, require the release of sizeable funds at European, national, regional and sectoral level.

The ETUC also considers that a **just transition strategy** has to be decided, namely for energy-intensive sectors in order to prevent carbon leakage and to encourage investments that help enhance environmental protec-

tion and safeguard quality jobs. It is also essential to create career crossovers to help workers from sectors that are shrinking to find quality jobs in expanding sectors.

For the ETUC, the 5 pillars of Just Transition to a low carbon Europe are:

- Consultation between Government and key stakeholders, including representatives from business, trade unions, local government and regional bodies and voluntary organizations;
- Green and decent jobs through investments in (new) low carbon technologies;
- Green skills: Government-led, active education/training and skills strategies for a low carbon, resource efficient economy;
- Respect for labour rights and human rights: democratic decision making and respect for human and labour rights are essential in order to ensure the fair representation of workers' and communities' interests at the national level;
- Strong and efficient social protection systems.

On the other hand, an exact evaluation of the situation of employment, per Member State and per sector, should be carried out under the coordination of the European Commission, with regards to the consequences of climate change. Thus the European Commission will be able to define, with the Members States and the social actors, the needs and necessary resources in order to implement the transition towards a low carbon economy in Europe.

Current European financial instruments can be used to finance these policies, but they do not suffice: the EU general budget, the European recovery plan, and the Structural Funds. They must be reinforced and mobilised further for the benefit of an EU development strategy.

The European Investment Bank (EIB) is an important and independent instrument of the EU general budget. In 2009, the EIB published a "Statement of Environmental and Social Principles and Standards" based on the fundamental principles of the ILO. This Statement has now been integrated in its project selection and implementation strategy. Greater use should be made of the EIB, if necessary by providing special (national) funds to finance the European climate policies and

support the R&D efforts, not only of large companies but also of SMEs and VSEs.

The European Bank for Reconstruction and Development (EBRD) currently offers interesting prospects to be more used.

#### **2.4/ Common Agricultural Policy (CAP)**

ETUC reiterates that the CAP must remain the main instrument for the implementation of the agricultural policy and is against any attempts to renationalise said policy.

The CAP must follow the logic of the EU 2020 Strategy and contribute to the financing of its implementation, and not on the contrary. The beneficiary enterprises have to respect, in particular, social and labour standards. Consequently, in future, the connection between the CAP and the sustainable and inclusive development objectives (creation of quality jobs, social cohesion, environmental protection) must be consolidated and strengthened. Furthermore, given the consequences of a shortage of agricultural products and the ensuing rise in prices for such products, its initial objective must not be neglected in this analysis.

In parallel with the restructuring of the CAP, the funds for rural development must be increased substantially under the CAP and not the Structural Fund, in order to tackle the problems of employment and competitiveness in rural areas, particularly in the new Member States.

#### **2.5/ Development policies**

The ETUC supports the EU ambition to play a more important role in the international sphere, namely through the aid to development which has been translated into the commitment to increase up to 0.7% of the GNP the budget to reach the objectives of the Millennium for development by 2015.

Accordingly to the EU commitment to reduce socio-economic inequalities through the promotion of social cohesion and employment, Decent Work needs to become a strategic objective of the future development policy of the European Union, supported by adequate financial instruments which will ensure its implementation. Social dialogue, as a core element of the

European Social Model and fundamental pillar of the Decent Work Agenda, must also be a priority within the external relations instruments of the EU.

The ETUC considers that the resources earmarked for supporting civil society, namely the workers and their representatives, to enable them to implement the EU development policies, have to be highly increased, strengthening in particular the thematic programmes in the field of democracy, fundamental rights and human and social development.

### **3/ "Efficient" budget**

It is judicious to ensure that the expenditures of the EU budget give the targeted results in terms of growth, job creation or economic and social cohesion, as this is the case at each level when public money is spent. The same is true when it is proposed to foreseen sufficient flexibility, namely drawing the lessons from the crisis while improving financial management, simplifying and reducing useless administrative burdens. Nevertheless the ETUC wants to draw the attention on the risks of an approach too centered on the obligation of results and sanctions or on economic governance which disregards the social impact of it.

#### **3.1/ Obligations of results and sanctions**

As regards the proposals by the Commission that have an impact on the cohesion policy, ETUC believes that the concentration of financial resources on a limited number of priorities includes a certain number of risks to do with the underlying political will to attach sufficient importance to employment and social policies.

This is all the more the case in the context of uncertainty created by the economic crisis which is likely to persist.

ETUC shares the opinion that the assessment, performance and results of the Funds must be improved.

To this end, indicators have to be defined, as we have called for repeatedly. It is just as important to have quantitative and qualitative measuring elements.

As regards the European Social Fund, we nonetheless have serious reservations about the implementation of an approach entailing the allocation

of funds based solely on results. More specifically, for employment policy and, more broadly, social policies, the results are more difficult to measure and less visible than in the case of transport policy, for instance. The construction of a bridge or a road, for example is evidently more visible than the results of training courses for unemployed young people. It is therefore essential to have a more precise and more appropriate system to assess the results obtained.

Moreover there is also a risk of “creaming”. Indeed, when we link the granting of funds to the results, we run the risk that the projects which concern the people more remote from the labour market, and thus with less probability of reaching positive results, have less or no access to these funds.

In this respect, in our view it is important to develop efforts aimed at ensuring that the role played by Structural Funds in promoting regional development becomes visible, thereby convincing Euro sceptics of their value.

Furthermore, ETUC is completely against the proposal to apply sanctions and financial inducements relating to the Stability and Growth Pact, inasmuch as sanctions that fall under the purview of the Member States would penalise the regions and localities. Furthermore, it is European solidarity, which is not sufficiently developed yet, that would pay the price for non-compliance with the Stability and Growth Pact. The result would undoubtedly be the impoverishment of the populations in the EU, consequently running contrary to the basic principles of economic, social and territorial cohesion policies as reaffirmed in the Lisbon Treaty.

To this respect ETUC considers that expenditures relative to vocational training, education, research and co-financing of the Cohesion Fund have to be excluded of the Stability and Growth Pact.

### **3.2/ EU budget as an instrument of support for economic and social governance**

ETUC believes that Europe is in need of economic and social governance but keeps on being strongly opposed to the Council's proposals on governance and a “competitiveness pact”. What Europe needs is to play its rightful role of providing the Member States with the indispensable tools to combat the crisis and the economic and social imbalances that have caused it.

This entails:

- a/ A Eurobond to help Member States cope with the irrationality of excessively pessimistic financial markets without the brutal economic conditions now attached to common EU-IMF loans.
- b/ A European tax on financial transactions accompanied by cooperation throughout Europe on taxation where the internal market is used by banks, businesses and capital gains in general to evade a fair contribution.

In this exceptional crisis situation, these instruments have to be used to finance a European stimulation policy, up to 1% of the European GIP, organised in the form of transfers for investment to the Member States, thereby helping the countries to get out of debt rather than imposing a blind austerity scenario on them that runs counter to the desired goal and is bound to destroy more jobs without managing to control the public debt spiral. And this in order to put more resources in the EU budget in order to reach the growth and employment objectives.

The ETUC considers that Europe needs not only to develop new adequate sources of finance but, on the other hand, counter tax competition. Consequently a European wide coordination of tax policy on the most mobile factors of production (business profits and income from capital) is most than necessary, and this in order to fight against tax dumping and tax paradises too.

#### **4/ EU budget financing**

ETUC considers that the Commission must insist, with due reason, on the fact that Europe's competitiveness in the world depends on a qualified labour force and modern infrastructure and facilities, and that consequently, it is necessary to bolster public investments in such key areas as education, research and broadband, energy and clean technologies. The EU's choices are nonetheless far from reality when it comes to budget deficits. The EU has actually acknowledged that the recent measures taken to save the financial system had burdened the public debt to an unsustainable level, and decided to embark on a return to a balanced budget. It has therefore called for cuts in public spending.

Rather than a premature “deficit reduction” strategy, ETUC wants an “entry strategy for growth, investment and employment.” The only way to reduce the deficits and public debt in the medium term is to kick start an immediate and vigorous economic recovery.

Europe needs enormous investments in new clean technologies, in particular in energy, transport and construction, as well as new industrial policies to boost production in the Union. Without a European recovery and investment plan, the economic and social consequences are self-evident. The EU will become even less competitive, neglect the poor and will not be able to create opportunities for its young people. In spite of fine speeches from European leaders, the proposals put forth do not provide any real solutions to these problems.

The European budget can make a difference if it matches the ambitions set in the “Europe 2020” Strategy. Nevertheless, if the Member States do not wish to pay more, and do not accept any new taxes, it will be impossible to finance new policies or without adequate financing, they won’t succeed. In order to finance new policies, an alternative consists in reviewing the structure of the budget and existing budget items would have to be “trimmed.” Nevertheless the danger could be that in practice this choice would lead to important cuts in social and cohesion policies.

The EU’s financial perspectives are the expression of its policy agenda. They are built on the idea that the economic advantages drawn by each country from its membership of the Union exceed the strictly budgetary cost of its participation. There are expenses and investments for which Europe represents the relevant level. It is this added European value, and not simply the goal of a “fair return” based on the calculation of net national budget balances, that must guide reflection on this subject.

ETUC considers that if we want to match the ambitions set by the “Europe 2020” Strategy and to take up the many additional challenges owing to the persisting economic crisis, Europe must have the political will to increase the EU General Budget after 2013. The very survival of our European Social Model, which is the envy of many a nation, is actually at stake. The financial support of the public authorities plays an essential role namely in the transition towards a low carbon society. Public financing



reinforces innovation and contributes simultaneously to support investments and employment in this sector. According to the position the Commission has expressed in a Communication on “Investing in the development of low carbon technologies – SET Plan” and according to which “an input of public financing is fully justified to reach the objectives of public policy and enable to overcome the market defects”, the ETUC calls for a revalorisation of public financing at European level (besides the national and sectoral levels) so that at least one third of the funds used for research and development comes from public sources (to make realistic the Member States’ commitment to dedicate 3% of the IGP to it).

Given the current economic situation, the ESF must continue to be an important strategic and financial instrument, endowed with more resources in line with the widened challenges it has to face (high unemployment rates), by reflecting an increase in the general EU budget of at least 5.9%, as proposed by the European Commission for the general increase of the EU budget for 2011.

In this respect, ETUC shares the opinion that each of these means of financing has advantages and disadvantages. We support the Commission’s proposal to simplify the contributions of the Member States by gradually abandoning all the correction mechanisms and the VAT as a resource in its current form and to reduce the volume of the GNI-based resource, by introducing, likewise gradually and in parallel, new specific resources linked to the policies, namely:

- European taxation of the financial sector/tax on financial transactions
- Tax on extreme wealth
- Tax on business profits (not used for reinvestment)
- European tax on big enterprises
- Eurobonds
- Environment axes such as:
  - a/ Revenues by the EU from auctions in the greenhouse gas emission quota exchange system
  - b/ European tax on CO<sub>2</sub> and energy (according to the “polluter-payer” principle)
  - c/ European charge on air transport.

# ETUC RESOLUTION ON DEVELOPMENTS IN EUROPE'S SOUTHERN NEIGHBOURHOOD THE ARAB SPRING

Adopted by the Executive Committee  
on 8 March 2011

The ETUC Executive Committee has followed closely the turmoil around the Southern and Eastern shores of the Mediterranean. In different ways, according to their own circumstances, people in the region are making a welcome call for deep change and for the full respect of their political, social and economic rights.

The ETUC condemns the state violence unleashed against legitimate protestors and supports those demands. It insists that the EU should respond with determination. The ETUC is concerned that the EU has been late in its expressions and actions of support, which reflect little more than the lowest common denominator of the positions of Member States and fall far short of the duties set down in the Lisbon Treaty under which the Union seeks to advance in the wider world: "democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law". The Union, led by the High Representative, should take a lead unfettered in pursuit of those aims.

Overshadowed by concerns about security (terrorism, energy, migration) as well as about securing markets, the policy of many Member States has often been self-seeking and cynical. While the ETUC shares the aim of protecting our people, it questions whether making deals with dictators is the way to ensure their safety. The revolutionary process in the Arab countries is a wake up call for the International Community as a whole

and a lesson for Europe. A policy that sacrifices in the name of economic interest and security the right of the people for democracy and human rights is not acceptable. In the long term, there is no stability without democracy. Europe should not export lessons but offer partnership and support predicated on the respect of universally recognised human and trade union rights, including the protection of minorities.

The ETUC condemns in the strongest possible terms the massacre of civilians by the Gaddafi regime and calls for all possible measures under international law to be taken against it and to support the Libyan people in their fight for freedom.

Currently, mass migratory movements are taking place mainly between Libya and neighbouring African countries. The EU should maximise humanitarian aid and assistance in resettling workers in their home countries. EU countries bordering the Mediterranean are most likely to experience the repercussions of changes close to them. Responsibility for policy and activities relating to our Southern Neighbourhood, as indeed other regions worldwide, should be undertaken jointly and proportionately by all members of the Union in a spirit of fairness and solidarity.

The ETUC notes the commitment expressed by the Foreign Affairs Council meeting on 21 February to “a new partnership involving more effective support to those countries in the Southern Neighbourhood which are pursuing political and economic reforms while drawing, where appropriate, on European experience of transition, including support to civil society, youth and economic cooperation”. It welcomes the Commission Communication of 8 March *A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean*, notably its statement that “Social dialogue between trade unions and employers plays an important role in sustaining reform efforts. New trade unions and employers associations are now emerging. This provides an opportunity for more effective social dialogue.” The ETUC will play a full part in related initiatives and calls for adequate resources to be provided to support them.

The ETUC recalls the role it played in assisting in the transition process in Central and Eastern Europe and is ready to help in our Southern Neighbourhood, in response to real needs expressed by our trade union

colleagues there. We have grave doubts that the Union for the Mediterranean in its present form can provide an adequate framework for action. Nevertheless, its social dialogue initiative has been one of the few areas where some progress has been made, particularly in promoting cooperation in the fields of education and training. This should be adapted and reinforced.

We recall the suicide by fire of a young street vendor in Sidi Bouzid in Tunisia and other desperate acts by young people in the region driven by a lack of jobs, social injustice, poverty and lack of freedoms. Those cries for help must not remain unheeded. The instauration of properly functioning and regulated labour markets to deal with massive unemployment, particularly among young people, must be a priority for EU assistance. The ETUC repeats its request that the new European External Action Service should include labour and social affairs attachés – draw from people with expertise in the field - to maintain links with and encourage the development of independent social partner organisations and to inform the development of policy and concrete projects. Such attaché posts should initially be created in Tunis and Cairo.

The ETUC will work closely with the International Trade Union Confederation, notably its Amman Office, in the design and implementation of projects to assist independent trade unions in the region on the basis of the needs defined by them. It underlines the necessity for a coordinated and joint approach that should be organised through the Euromed Trade Union Forum ETUC-ITUC where all relevant partners are represented. The Forum, by decision of its Coordination Committee, ended early in 2010 any cooperation with the International Confederation of Arab Trade Unions and its affiliates not members of the ITUC (Egypt and Syria). The Forum will invite the new independent trade union federation initiated by the Egyptian Centre for Trade Union and Workers' Services (CTUWS) to join it. We recall that Histadrut is a member of the Forum.

In Tunisia, the UGTT continues to play an essential role. The Tunisian Trade Union Movement proved its capacity to mobilise and to help to structure the political and social protest. The ETUC and its affiliates will support trade union unity and cohesion in Tunisia. That country was the starting point of a process that now covers most of the Arab countries

and that has to be considered as a first step for regime and democratic changes. It is essential to underline that the process for change in Tunisia and other Arab countries was from the very beginning home-grown and not driven externally. The success of the Tunisian transformation is crucial as a reference for the Arab world.

In Egypt, the regime-controlled Egyptian Trade Union Federation (ETUF) is still in place, though morally bankrupt and without any credibility among working people. The ETUC is deeply concerned at the continued close support for the current ETUF leadership by the authorities and their decision to “keep on hold” the issue of trade union rights. The continued denial of those rights is unacceptable, particularly against a background of ongoing strikes and sit-ins in workplaces throughout the country. Egypt must now fully comply with international standards, notably freedom of association. The ETUC reaffirms its support for the new independent trade union federation, initiated by the CTUWS, that brings together existing independent trade unions in the health sector and tax collection, as well as representatives of the workforce from the country’s principal manufacturing sites, civil servants and workers from other sectors.

The ETUC urgently calls for positive movement to resolve the Israel / Palestinian conflict on the basis of United Nations Security Council Resolutions. Now is not the time for the EU to enhance political and economic relations with Israel bilaterally, so long as human rights, the rule of law and fundamental freedoms, good governance and international humanitarian law are not fully respected, and in particular that settlements continue. The EU should draw up a coherent strategy including corresponding advances in relations with Arab states and the Palestinian Authority. The EU continues to be by far the largest donor of humanitarian assistance in Palestinian territories, notably Gaza, and it must ensure that this is not used in any way in the crucial process of reconstruction to provide succour to the extremists, but rather to help the population out of the dreadful poverty that provides the fertile ground for their activities.

The ETUC will continue to keep developments under close review, extend whatever assistance it can to independent trade unions in the region through the Euromed Trade Union Forum in cooperation with the ITUC, and press the EU Institutions to act resolutely in line with this resolution.

# ETUC RESOLUTION ON EUROPEAN ECONOMIC GOVERNANCE

Adopted by the Executive Committee  
on 8 March 2011

## FOR A FAIR AND A MORE EQUAL EUROPE

I  
Financial market turmoil continues to exert strong pressure on several Euro Area member states, forcing them to pay high interest rates on the world's bond markets. This situation is now being exploited in many countries, not just those in immediate difficulty, as an opportunity to push for "flexibility" of wages and to attack the labour market institutions that keep wages from falling and support the bargaining position of workers and trade unions; these are now being considered as an undesirable 'rigidity'. To make this deregulation happen, the EU authorities have their minds set on obtaining the power to intrude not only in wages but also in the wage setting machinery itself.

II  
The attack is conducted in several ways and at the same time:

- a/ The Commission, the IMF and the ECB are directly intervening in certain national wage negotiations, forcing countries like Ireland, Greece, and Romania to cut minimum and public sector wages and weaken collective bargaining institutions in return for a financial 'bail out'. This financial aid is being provided under very tough conditions.
- b/ But it is not just the countries in immediate difficulty. The Commission's Annual Growth Survey, opening the policy semester of the new EU 2020 agenda, is openly calling for strict and sustained wage moderation, changes in to wage indexation rules, "appropriate" wage setting policies and "more efficient" wage setting mechanisms so that wages

promptly and properly reflect labour productivity and ensure the EU's competitiveness position vis -à-vis the rest of the world and inside the EU and Member States.

- c/ At the initiative of the German/French government, the Commission and the Council's presidency are now working on a 'competitiveness pact'. This is likely to result into acceptance of the principle that wage increases should remain limited to productivity developments only. And this would concern all members, not only those where mechanisms of wage indexation exist. The latest version of the Competitiveness Pact also only targets upwards wage developments, not the more acute problem of strategies that depress wages including outsourcing and social dumping. Moreover, it is calling for a decentralization of collective bargaining and for aligning the retirement age with life expectancy while reducing early retirement schemes. In return, funding for the European Financial Stability Fund would be increased (to a level of 500 billion).
- d/ Finally, but importantly, there are the proposed sanctions. The Commission's proposes to give itself enhanced powers to enforce its recommendations, with fines up to 1% of GDP only to be avoided by a members state if it can gather, within ten days, the support of a qualified majority within the Council of Finance Ministers. Indeed, the proposed process on the prevention and correction of "excessive imbalances" which includes an alarm mechanism and a scoreboard of indicators, will function as a 'European law on wages', with statistics such as the relative unit wage costs systematically being used to measure the competitive position of each economy and to draw up policy recommendations, no doubt pushing downwards wage adjustments in most member states.



The ETUC rejects this approach and cannot support the proposed Treaty change necessary to bring this about if economic governance is to be limited to austerity governance. It was not wages that caused high external deficits. The real fault lay with irresponsible behavior in financial markets which unleashed wild debt and asset booms, thereby feeding 'deficit' countries with the spending power to increase imports to levels that were, in the end, unsustainable. Cause and consequence are not to be confused. If wages have been slightly stronger in the past in 'deficit' countries, this is because nominal wages were trying to keep up with prices increases because of an excessive injection of demand - an increase

for which financial markets, and not trade union wage bargaining strategies, were responsible. We cannot accept that wages become the main instrument of adjustment to clean up after financial markets careered out of control.

### **The ETUC stands firmly against a “European competitiveness law” to cut wages**

#### **IV**

Attacking collective bargaining is a dead end for Europe and will not contribute to “saving” the euro. Wage and fiscal austerity are not working. There is ample evidence (for example in Greece and Ireland) that today’s austerity programme seems likely to constitute the basis for a next round with even deeper cuts. Far from restoring confidence and growth, austerity locks economies into a low growth, deflationary, downward spiral. Financial markets are aware that nominal debt levels of both private and public sector remain firmly fixed when other key indicators (prices, wages, tax revenues, jobs) are falling; and they are more reluctant to maintain their capital investment in those economies that are in the grip of deflation and at risk of default. Instead of “saving the euro”, the European economy risks being divided into a core with low cost finance rates on the one hand and the rest on the other hand, facing very high, exorbitant interest rates and continued depression.

#### **V**

This approach is unfair as well as impracticable. The finance from the EFSF, the IMF and the ECB to distressed member states is primarily used to allow the European banking sector to continue to exchange troubled assets for cash, so pressing workers to pay for the financial sectors’ mistakes.

#### **VI**

The approach will also encourage ‘beggar-thy-neighbour’ strategies. What some may gain in the short run, others will lose. A European law on competitiveness would draw workers into a downwards spiral undermining wages and working standards. Those economies, which are now being admired for cutting pay to be more competitive, will come again under attack after others have cut their wages. In the end, the quest for



this kind of competitiveness will threaten the autonomy of collective bargaining everywhere, while higher inequalities and precarious work will continue to spread throughout Europe.

## **VII**

The action being taken on economic governance breaches key principles of the new Lisbon Treaty (in particular article 153). That Treaty commits the Union to eliminate inequalities and to promote equality in all of its activities, to pursue the objective of harmonized and improved working and living conditions, to take into account the diversity of industrial relation systems, and to respect the autonomy of social partners. Ultimately, the Treaty states that Europe has no competence over pay. All of these principles are in effect being breached by the current proposals on economic governance and for a 'competitiveness pact'.

## **European Governance for a Fair and More Equal Europe**

## **VIII**

Europe needs urgently to change course and adopt positive proposals on economic governance.

## **IX**

The ETUC proposes that Europe's leaders adopt a programme on the following lines:

- a/ Financial markets need to be given the signal that Eurozone countries will join ranks and are determined, ready, and willing to see crises through together. Funding for the EFSF should be expanded, its current rather punitive levels of interest rates need to be cut and distressed countries helped to restructure their debt; EFSF bonds should be guaranteed jointly by all Euro Area member states, and the harsh conditionalities should be reviewed and brought in line with a more balanced approach – observance of rules yes but social rules too such as the rule that Europe has no competence on pay (article 153) and a substantive helping hand for growth too.
- b/ In the medium term, steps could be taken to convert EFSF bonds into Eurobonds. The aim is to organise a tranche transfer of national sovereign debt bonds into Eurobonds up to a maximum of 60% of GDP.

By introducing these Eurobonds, a single sovereign debt market will be created which eliminates some of the large differentials in the cost of financing sovereign government debt.

- c/ The ECB needs to back up both these operations since, in the end, the central bank is the institution which is in the best position to shield public finances from the turmoil of financial markets. This can be achieved by creating a European Public Bank for Sovereign Bonds having access to the central bank's liquidity operations. Sovereign debt (Eurobonds or national bonds) could then be deposited with the ECB as collateral in return for finance from the ECB at favourable interest rates.
- d/ Financial markets do not just need supervision, they also require effective regulation. With credit rating agencies having had a destabilising effect and suffering from conflicts of interest, the credit ratings of member states should be taken up by the ECB and/or an independent European public credit rating agency. Moreover, all financial market products should be assessed to ensure that they make a genuine contribution to the economy. Banks should not be allowed to carry out their own proprietary trading with financial products. Bankers' and traders' exuberant bonuses should be strictly controlled.
- e/ As called for previously by the ETUC, the EU should develop a major investment programme amounting to 1% of European GDP to tackle unemployment, especially youth unemployment; and also to upgrade industrial structures and infrastructure (eg a European smart electricity grid, investment in sustainable energies, developing a real industrial policy and the jobs for the future, investing in the technological and social transition to a low carbon economy...). Moreover, a European investment programme of this kind could rebalance the EU by providing countries in distress with the means to revive their economies so that they can grow out of debt. In return, these countries are to commit to a more **gradual** but determined and **continued reduction of national deficits**. Realistically this implies, besides starting up the reduction in fiscal deficits, a review of the time horizon for fiscal consolidation: Member states could be allowed to attain the 3% deficit objective by 2016 – 2017, instead of the 2012-2013 horizon.
- f/ The Euro Area would be facing less financial turmoil if its core had not embarked on a systematic policy of pushing down wages, promoting precarious work and allowing the redistribution of income

towards the richest sectors of society, thereby accumulating excess savings which then provided the ammunition for finance to stage unsustainable asset booms across Europe. The countries that have followed this road therefore should therefore shoulder their share of the responsibility of unwinding excessive savings positions, and becoming the locomotive for demand and growth for the rest of the Euro Area and Europe. To do so, the low pay sector, along with the practice of paying less than equal pay for equal work to migrants, should be squeezed out of the economy. Economic governance should also mean that labour markets across Europe (in line with the specific characteristics of its national industrial relations system) set minimum wage floors under which wages cannot fall, while at the same time promoting institutions to extend the coverage of collective bargaining.

- g/ Europe needs too to develop new sources of finance and tackle tax competition. Europe issuing its own debt implies that adequate new sources of finance need to be found. Europe could start taxing financial transactions as called for recently by the European Parliament, extreme wealth, funds hidden in tax havens, business profits not used for reinvestment or businesses extending the use of precarious contracts. Alternatively or additionally, a European wide coordination of tax policy on the most mobile factors of production (business profits and income from capital) would strengthen tax revenue. And part of that could be transferred to a more robust European budget, enabling Europe to respect its debt payments and play a more decisive role in exerting from the current crisis.
- h/ The Euro Area in particular also needs to consider a stronger coordination of collective bargaining strategies in order to control the phenomenon of imbalances. Surplus countries switching to a strategy of increasing real wages would then be reflected in the wage bargaining strategies from other Euro Area members. The ETUC would attach strict conditions and demands to such a coordinated wage strategy:
  - EU authorities should start supporting collective bargaining strategies.
  - the ETUC cannot assist in pushing economies into the trap of debt deflation with wage cuts and wage freezes imposed at EU level. Pay needs to remain in positive territory to combat austerity and inequality.

- the ETUC will defend the principle of autonomy of collective bargaining. The strategy of coordinating collective bargaining strategies is a matter for trade unions only.

### **The ETUC calls upon the European Parliament, the European Council and ETUC affiliates to act and change course on European economic governance**

#### **X**

Since the two draft regulations providing the basis for the Commission to intervene in national wage setting are to be adapted in co-decision between the European Council and the European Parliament, this provides the ETUC with the opportunity to try to correct the most disturbing aspects. To do so, the ETUC has drawn up amendments stressing that policy recommendations in this new procedure on 'excessive imbalances' need to respect the Treaty principles on the autonomy of social partners and that there should be no sanctions related to recommendations concerning pay, collective bargaining structures and/or minimum wages (see attachment for a list of ETUC amendments).

#### **XI**

At the moment, there is a majority, both in the European Parliament as well as the European Council to accept the Commission's proposals. The ETUC and its affiliates and industry federations therefore urgently need to mobilize public opinion and generate a public discussion to draw the attention of the media and politicians, both on European as well as on national level in order to influence the deal making process that is continuing in the European Parliament and the Council. The future of Social Europe - Workers

## ATTACHMENT: Summary overview of the economic governance package and ETUC amendments

### I. Excessive imbalances pillar

	Commission proposal	Problem	ETUC proposal for amendment
1	Imbalances = adverse macroeconomic developments.	Extremely vague definition, open to abuse by presenting all problems as a 'competitiveness' problem to be solved by downwards flexibility of wages.	'imbalances mean persistently diverging developments between aggregate demand and aggregate supply leading to a systematic surplus or deficit in the overall savings position of an economy.
2	Scoreboard = macroeconomic and financial indicators.	Ignores the fact that high and rising inequalities are at the root of current account imbalances: The rich save too much while the poor are forced to borrow too much.	Add social indicators such as indicators on inequalities, the incidence of low pay, the working poor, the share of labour income in overall GDP and unit profit rates.
3	No limits to the areas of policy recommendations and intervention.	Weakening and deregulating wage formation and collective bargaining institutions. Turning wages into the single factor of adjustment, with high and rising inequalities as consequence.	Explicit reference to article 3 of the Treaty, article 153(Europe no competence on pay) and the Charter of fundamental rights. Take into due account national models of industrial relations. Impose symmetry of recommendations (also targeting 'surplus' economies).
4	Procedure limited to DG ECFIN and Council.	Only the 'finance' point of view is taken into account.	Consultation of European Social partners (and the EP) on recommendations in the excessive imbalance procedure.
5	Sanctions and fines.	Makes a difficult situation even worse, European sanctions will intensify the consequences of financial markets' irrational pessimism.	Both excessive deficit as well as excessive surplus countries are to be sanctioned.

6	Sanctions on wage setting.	Europe becoming the police officer of wages.	Exclude sanctions concerning recommendations that relate to the issue of wages, in particular minimum wages and collective bargaining systems.
7	Reversed qualified majority voting to levy sanctions.	Allows DG ECFIN to push through the deregulation of the labour markets in Europe.	Reject reversed qualified majority voting.

## II. Excessive deficit and Stability Pact pillar

	Commission proposal	Problem	ETUC amendment
1	Set growth rate of public expenditure below prudent medium term growth.	Forces upon member states the choice of consolidating public finances by reducing the role of the state and social welfare state.	Rebalance by adding that growth in tax revenue should normally not fall behind medium term growth.
2	Set growth rate of public expenditure below prudent medium term growth.	Death sentence for automatic stabilizers/welfare systems . In crisis, unemployment benefits push up public expenditure. Sticking to a growth expenditure norm means cutting in in times of crisis (and enjoying windfall gains in good economic times).	Exclude expenditure components which are related to tyeh business cycle from this expenditure growth norm.
3	Temporary departure from fiscal discipline limited to a severe economic downturn of a general nature.	Restrictive wording. In a single currency area, with a single monetary policy, fiscal policy should have more, not less, leeway to react in case of country specific shocks.	Delete wording referring to 'a general nature'.

4	Exceptionally, higher deficits are allowed if countries shift to a fully funded pension pillar.	Potential privatization of pension systems should not be promoted by Europe.	Allow the cost of those reforms conducive to more and better jobs ,social cohesion and public investment to be taken into account when defining the consolidation path.
5	Reduce public debt ratios by one twentieth of the differential with the 60% debt threshold.	Extremely pro cyclical because of the denominator effect: Debt ratio increases when GDP denominator falls.	Limit this rule to those cases in which the economy has been operating above potential for a period of three years.
6	Sanctions and fines.	DG ECFIN forcing member states to cut public sector wages.	Exclude the possibility of fines relating to recommendations on public pay.
7	Reversed qualified majority when deciding sanctions.		'Normal' qualified majority.





**APRIL 2011**

# RESOLUTION ON INDUSTRIAL POLICIES AND WORKER PARTICIPATION

Adopted by the Executive Committee  
on 28 April 2011

The global economic crisis has hit European industry very hard, exacerbating the most negative features of globalisation under financial governance. The new European economic governance approved by the European Council reaffirms the dogma of the stability and growth pact and breaks away from the principle of social negotiation, opting instead for a European-level wage policy. It is in danger of plunging the Union's economy into a long period of low domestic demand and triggering relocations to other parts of the world where the prospects are rosier. We are already seeing a spectacular increase in inequalities and the proliferation of insecure jobs in our societies, with the foundations of the social state and social protection systems being rocked.

The European Union must fit its crisis exit strategies into a long-term vision based around three strategic imperatives: to curb and control the effects of climate change, stave off the consequences of its globally unfavourable demographic evolution, and organise the transition towards an industry geared to mobilisation of knowledge and better use of materials and energy resources. Transforming these constraints into opportunities is the major objective of an industrial policy allowing industry's capacity to bounce back to be combined with the sustainable promotion of employment upon which the prospects for human development depend.

These issues must be met by means of various European Commission projects, including the recent roadmap for a low-carbon economy by 2050, whose observations and analyses support our arguments for a European industrial policy. Another example is the recent white paper on transport that does not even go into these fundamental industrial issues.

## **Avoiding a short-sighted approach to competitiveness**

The intensification of globalisation and the rising power of the emerging economic players have led to a restructuring of the value chain on the basis of technologies favouring globalised organisation of communications and transport logistics, enabling businesses to carry out their activities within a complex web of connected services and supply chains<sup>1</sup>.

A short-sighted analysis might lead to the search for competitiveness via wage austerity, greater flexibility, pared-down social spending and vocational training confined to the adaptability of workers. The 'competitiveness pact' is rushing headlong down this regressive path. Yet pressure on wages or an aggressive cut in the quality of work will never be an 'answer' to the question of competitiveness compared to the emerging countries. Plus, many industrial businesses have opted instead to invest in innovation to get themselves established and guarantee their position on the global markets by valuing the quality of their products and the associated services. This corresponds to another view of competitiveness, linked to investments in manpower, R&D and high-quality infrastructures required by the demand for much more economical and effective management of energy resources and materials. There is still a long way to go before this choice is irreversibly confirmed.

## **Transferring skills to maintain them and updating them to bounce back**

In the private sector in the European Union, one job in four is in the manufacturing industry, and at least one other job in four is in the services directly dependent upon industry, as suppliers or as customers. Between 1995 and 2007, labour productivity in manufacturing industry rose by 46 % (compared to 20 % across the economy as a whole). Part of this progress is due to innovation; a second part to outsourcing activities and intensifying labour; a third to certain services, particularly public services, intended to promote, develop and safeguard the common goods of health, education and social cohesion. It makes no sense to oppose

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1 'What future for European industrial workers? New industrial policies, worker participation and structural change'.

industrial and service activities – everything must be done to maintain their effectiveness and the coherence of the combination at the heart of European economic and social development.

Many of the skilled staff employed in critical jobs – i.e. requesting a know how resulting more from the individual and collective experience than from training - in European industry will be stopping work in the coming 10 years. Unless we want to resign ourselves to the planned extinction of many European industries, we urgently need to set in place the transfers of skills and knowledge, both individual and collective, between generations of workers that are essential for the maintenance of competitiveness. The shocks triggered by the financial crises are dangerous. The bursting of the bubbles, because of excess liquidity and its unproductive allocation, leads to industrial disinvestment, which is often the harbinger of the planned death of the productive apparatus. The answer to crisis situations which are acute but cyclical and occur on a one-off basis must combine the retention of collective skills through stability of working teams and the maintenance of the productive apparatus. Periods of inactivity along 'partial unemployment' lines must be exploited for actions to train the labour pool and improve the competitiveness of sites in preparation for the recovery.

Alongside the risk of undermining precious skills is that of falling further behind in acquiring and implementing new technologies and skills, making industrial jobs less attractive and reducing social visibility of their potential to bounce back. Manufacturing industry is actually more vital now than ever, because of both its contribution to economic prosperity and the solutions that it can provide to the new societal problems and demands:

- a redirection towards reasonable and well-thought-out management of natural resources, common social and environmental goods;
- hitching collective examples of solidarity to individual achievement;
- taking account of the ageing of the population...

This requires educational and vocational training policies that ensure acquisition of fundamental skills as well as access to new knowledge, and contribute to filling the gaps in skills that are already beginning to be felt and could delay putting in place promising, sustainable technologies.

So an industrial policy, that is so crucial to Europe, could:

- decouple economic growth from environmental degradation;
- commit industry through horizontal and sectoral measures integrated into a process of learning and implementing 'sustainable' activities reconciling the social, economic and environmental objectives;
- promote a new development model (consumption, production and distribution) reducing the 'ecological footprint' of supply chains and encouraging closed-loop production<sup>2</sup>.
- anticipate industrial transitions in the highly energy-intensive industries;
- develop decent, quality job<sup>3</sup> (stable work contracts, secure working conditions, vocational development and lifelong training);
- promote industrial innovation bringing together new technologies and regulations (angling the fiscal pressure towards the protection of the environment and not towards labour) in a virtuous circle leading to an economy with low CO<sub>2</sub> emissions.

## **Industrial policy and the initiatives in the Europe 2020 strategy**

All of the Commission's political proposals in the framework of the five key initiatives defining the Europe 2020 strategy focus on the objective of an industrial policy, but dodge the main issue for the European Union, which is to think again about the complementarity between industrial policy/ies and competition policy. The challenge facing a rethink of industrial policies is no longer so much to select sectors on the basis of their productivity or their strategic role, or to change the global environment, it is to identify the organisational methods which will create added value, to facilitate and render viable the instances of cooperation allowing free movement, via multiple professional or territorial networks of technological, organisational and cultural innovation factors, and the pooling

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2 The concept of an ecological footprint starts with the assumption that the Earth's ability to regenerate itself might be the limiting factor for the human economy if mankind continues to overexploit what the biosphere is able to renew. Closed-loop production is a model for planning production resources according to which products discarded are reused in the supply chain.

3 Several studies have specifically identified a major potential for job creation in the new sectors of the sustainable economy (see the report by SYNDEX, WWF and the ILO report on the subject).

of economic and sociological information allowing the preservation and redeployment of collective skills<sup>4</sup>.

It is not sufficient just to invoke the role of SMEs in job creation, because this ignores the complex reality of industrial ties and provides no operational lever to develop employment. European industry needs a differentiated and solid industrial fabric made up of innovative SMEs and global champions alike. Cooperation is the decisive element: only concerted industrial strategies, broken down in sectoral and territorial terms, can give it a solid framework. It is crucial to avoid a situation where an emerging technology is trapped inside a structure which is incapable of promoting its development and a controlled technology is trapped in a small number of productive sectors, or the prisoner of an oligopoly or a hierarchical network. The categories 'high-tech' and 'low-tech' are simplistic. Many businesses with no R&D departments are innovative and manufacture products with a high added value. In addition, most workers are employed in low-tech sectors, which is why innovation policy needs to focus primarily on:

- The establishment of a close reciprocal relationship between the high-tech and low-tech sectors, and between the new industries and the traditional industries.
- The extension of the narrow technical definition of innovation to its social, organisational and structural aspects.
- Widespread recourse to the participation of workers and workers' representatives.

## **Industry needs a strong social Europe**

The struggle against inflation through wage moderation cannot form the basis for European integration. Macroeconomic policies need to be tied to industrial policies so as to support the creation and maintenance of high-quality industrial jobs. Europe's political decision-makers and the central banks need to be encouraging monetary, fiscal and budgetary policies geared to growth.

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<sup>4</sup> These factors are actually indispensable to the emergence and consolidation of multiple, evolving niche strategies, realising the integration of huge technological and organisational mastery, covering the entire cycle from design to sale, at the cost of a close, service-rich relationship with the customer targets adopted.

A European wide coordination of tax policy on the most mobile factors of production (business profits and income from capital) also needs to be encouraged as a tool to help avoid fiscal dumping within the EU, along the lines of the actions against tax havens and tax evasion.

At European level, restructuring operations have been going on for too long in a virtual social vacuum. While social Europe is ailing, we are witnessing the liberalisation of the labour markets, the gradual introduction of precarious and 'flexible' jobs, and reforms which are entrenching the inequities – in particular in terms of unemployment and pensions. Wages have been under attack and this has weakened purchasing power and demand. During this time, skills shortages have been increasing, investment has plummeted and global industrial performances have been questioned. A social dimension to industrial policies, necessary for the sake of social cohesion which is being undermined by the crisis, needs to be integrated into the European agenda, specifically via the promotion of new rights, so as to ensure socially responsible management and anticipation of change, lifelong learning, and active labour market policies giving security for professional transitions, regardless of the categories and contracts. Many workers, either because of the proliferation of small businesses or the inadequacy of their trade union and social rights, have no access to European works councils or other equivalent European networks. We need to guarantee effective and regular information and consultation for workers notably in order to facilitate the upgrading of salaries, which are important means of struggle against inequalities. The social dialogue also needs to be promoted through the introduction of new models of information and consultation all along the value chains. and by the implementation of new rights for workers, in order for technological developments aiming at meeting environmental requirements to also achieve social objectives, including the creation of quality jobs.

### **Ambition versus austerity: investment lies at the heart of the discussion**

We need to see a fresh regulation of the financial markets so as to redirect the banks towards their fundamental role, which lies in putting forward capital for productive activities, not lining their own pockets by making the real economy pay the price. A tax on financial transactions

needs to be put in place in the framework of this new regulation. Public-private partnerships for R&D and innovation should enable the private sector to achieve the objective of 3% of GDP devoted to spending on R&D, while social and environmental criteria for public contracts should be adopted for the sake of ensuring demand in terms of new products: access to these partnerships and these contracts needs to be opened up to SMEs, favouring the mutualisation of risks and cooperation. The market mechanisms and the allocation of the risks need to be rearranged to guarantee that investment policies geared to the long term are more advantageous than those which concentrate on short-term dividends for shareholders. The existing European regional and structural funds need to be redirected to allow the creation of jobs and to achieve the industrial policy objectives. Public markets should be recognized and supported as driving forces for competitiveness and for investments of quality.

### **A panoply of instruments serving a sustainable industrial policy**

An industrial policy combining technological and organisational innovation, capable of supporting a new model of growth based upon production using little energy and few resources and satisfying new societal needs must:

- 1/ Enable every enterprise to seize an opportunity for innovation or breakthrough thanks to the fact that it has access<sup>5</sup> to the appropriate financial and human material resources to transform a conclusive test into a long phase of success.
- 2/ Encourage cooperation both between the 'complementary parties' and the 'competitors', promote the pooling of knowledge, community projects, networks of players, territorial cooperation, and social networks.
- 3/ Choose to exploit joint pools of added value and productivity linked to the industrialisation of 'made-to-measure', closely incorporatin

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5 In particular, ensuring access for SMEs via development mechanisms taking into account the additional difficulties facing them in taking part in technological platforms. In many cases, it is the SMEs within the industrial supply chains that are carrying the heaviest burden in terms of R&D and innovation (e.g. over 70 % of R&D spending in the value chain for the automobile industry).



products and services, by preserving and passing on collective knowledge, capitalising on it and regenerating it through lifelong learning.

The locations for innovation, like the poles for competitiveness, need to be called upon to identify what tomorrow's new promising trades will be, at the various levels of qualifications (technicians as well as engineers). By investing politically and financially in competitiveness poles and innovation networks (enterprises, universities and research centres) and using different channels and institutions to foster synergies between enterprises, the regional bodies help to reinforce European industry and play a decisive role in investment decision. To support this effort and help to put in place the conditions to make it effective, it would be advisable for the ERDF to set this objective among its top priorities.

## **A coherent energy and climate policy**

Sustainable development of European industry requires an energy policy guaranteeing security of supply at a reasonable price for industry<sup>6</sup> and households. After a critical analysis of the deadlock in the strategy for the liberalisation of energy markets, a European Energy Agency will have to shoulder the increased role of the European and national public authorities to promote major energy production projects ensuring the long-term electricity supply and investment in leading-edge energy technologies.

The new industrial policies need to simultaneously include a defensive side through the fight against carbon leakage<sup>7</sup> and an offensive side through the development and dissemination of clean, low-carbon technologies. After several years of operation in the steel sector (plus the similar initiative recently taken in coal technologies), we need to press on with evaluating the method known as 'precompetitive cooperation at

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6 A hefty increase in the price of energy in Europe might seriously weaken competitiveness and have further negative consequences on employment, as stressed in the ETUC's resolution in December 2010 on energy policy, which also advocates the development of a smart grid for the production and transport of electricity and gas.

7 The search for international sectoral agreements is the major solution for the sake of avoiding the negative effects of 'carbon leakage' on growth and employment in Europe, and carbon traceability is a technical condition for their introduction and represents a powerful incentive for their implementation.

European level', before increasing the number of public-private partnerships giving industry a basis from which to embark on the first stages of the low-carbon technological transitions required. The main thrusts of the policy of transition towards a low-carbon economy will make a decisive contribution to the framing of industrial policies by stimulating the definition of major sectors around energy-saving projects or projects to increase the yield from social equipment and production processes. The restructuring operations linked to the necessary transition towards a low-carbon society will affect certain major sectors of European industry. They need to be addressed in the same spirit<sup>8</sup> and with methods similar to those which will need to prevail for the institution of the new regime of growth inherent in sustainable development. Binding European standards in terms of energy efficiency and performance bonuses must be combined to breathe life into a programme of transformation. This programme must support businesses which, to conserve their competitiveness:

- are implementing other solutions involving low CO<sub>2</sub> emissions;
- are reducing their energy needs;
- are investing in R&D into sustainable technologies;
- are investing in training workers so as to adapt their skills to technological evolution;
- are creating new, quality jobs and services which are contributing towards sustainable development.

## **Strengthening investments in education and training**

A sustainable industrial policy requires strong investments in human capital, thus in education and training. The excellence and reactivity of the industrial workforce lies for a significant part on the quality of education

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<sup>8</sup> Before pressing ahead with the closure of businesses threatened by the challenges of the transition to an economy with low CO<sub>2</sub> emissions, it is appropriate to conduct a three-pronged analysis tackling the social, energy, technological and environmental aspects. Bridges designed to help workers in shrinking sectors to find quality jobs in expanding sectors need to be set in place. The European structural funds should get more involved in the restructuring processes so as to promote intensification in R&D in terms of conversion. Appeals should be made to the point of view and skills of workers and their organisations to debate the soundness of the industrial restructuring operations and propose alternatives, in the framework of consultation procedures going well beyond the minimum requirements in the current information/consultation directives.

systems from Early Childhood Education to Higher Education. Highly attractive Vocational Education and Training (VET) systems both within mandatory education and lifelong learning are essential elements to provide the industrial labour markets with adequate skills. Public education is and will remain a national competence. Europe has to reinforce its coordinating dynamic to secure the appropriate investments in education and training.

### **Raw materials: saving, reclaiming, recycling and regulating**

A global strategy for raw materials needs to be devised to link the promotion of leaner production processes to a shift to a higher gear in the recycling of industrial waste, and more muscular research into substitutes for rare materials or those posing a threat to health and safety. In that context, there is a need for an inventory of the raw materials available within the European Union, fair trade agreements and strategic partnerships with the producing countries. The need for a coherent way of dealing with environmental interdependences can be the source of new industrial architectures<sup>9</sup>. Europe is poor in competitive mineral and energy raw materials, since the intensive reclamation of recycling constitutes its main supply<sup>10</sup> of raw (secondary) materials. This is an area where there is complementarity between defending the competitiveness of Europe's transformation industries and curbing their ecological footprint. In financial terms, the running of the futures market for raw materials needs to be reorganised to focus on their prime useful vocation, to cover the risks linked to variations in prices for the industries producing and consuming.

### **A robust industrial policy that creates jobs with strong participation by workers at all levels**

The combination of an increasingly modular industrial fabric and a market-led mode of governance thanks to the sophistication of financial engineering and the worship of shareholder value has demonstrated

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9 Rehabilitating and remodelling the argument in terms of sectors, for example throughout a product's life cycle, from extraction and manufacture of its initial inputs to its final usages.

10 In parallel, Europe needs to make sure that it has access to the raw materials that its industry needs by making full use of the guarantees offered to it by the WTO rules with due regard to the fundamental rights of the ILO.

its limits and given a brutal glimpse of its dangers. These need to be replaced by the capacities for initiative, innovation, cooperation, and the framing and transmission of skills that are found in the world of labour and its organisations. As things stand, these capacities are suffering from the individualisation of different types of status, the segmentation of processes and the growing insecurity of career paths. They are above all being denied or swept under the carpet by short-term dictatorship or the contradictory injunctions of a technostucture to which the survival of enterprise and employment no longer seems to be a cardinal value. Workers' participation must be the cornerstone of European industrial policy in the years ahead. Europe needs projects in which workers can get involved and make an individual and collective commitment, because they have a meaning and pursue values that they share. A new industrial policy at European level cannot be effective unless it is closely coordinated<sup>11</sup> with the policy of the Member States. Both the Commission and the European Parliament need to understand that the success of such an initiative requires the participation of all the stakeholders, specifically the social partners, and that this participation needs to take concrete shape in the joint oversight and ex ante and ex post evaluation of both the strategies and the actions and programmes in which they fit. It is equally necessary to regulate the joint and several responsibilities of the main suppliers concerning working conditions in their supply chains. The economic and social transition dictated by the new model of growth corresponding to the sustainable development of our societies requires that the European trade unions become aware of the role which they can play and which they must shoulder to exercise a crucial influence over its conception and its management: industrial policies are part of its structure.

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11 The new integrated approach likewise demands close cooperation within the very heart of the Commission making it possible to get round the institutional schisms caused by its current organisation into directorates which engage in little cooperation, each one defending its patch and jealously guarding its own prerogatives.

## Conclusions

It is crucial for the future to develop industrial policies corresponding to the needs and challenges of the future (ageing population, transformations in society, increasingly scarce natural resources and energy...) and new parameters, particularly Europe's future energy mix.

To anticipate and manage industrial transition well, an open vision must be adopted. Tomorrow's innovation will be the one that has adopted this vision, that has managed the risks inherent to new technologies (for example nanotechnologies) and that has anticipated future challenges including the risks of increasingly scarce resources.

ETUC wants, particularly by means of this resolution, to participate in thoughts on European industrial policies that must be developed sustainably.

The next step for ETUC will consist of organizing a conference, in collaboration with its European industrial federations, on how to organize a just transition for raw material- or energy-intensive industries in the context of the European objectives for 2050.

# STRENGTHENING WORKER INVOLVEMENT: MINIMUM STANDARDS FOR INFORMATION, CONSULTATION AND PARTICIPATION IN EUROPE

Resolution adopted by the Executive Committee  
on 28 April 2011

## Background

### I

The present global economic and financial crisis has brought to the fore-front the issues of corporate governance and crisis management in the European Union.

### II

The financial crisis has become a general economic crisis with a huge increase in unemployment in Europe and with a wave of restructuring, relocation and cost cutting by corporations around the world. Workers in Europe and elsewhere are now paying the price for the excesses of investors and financial markets.

### III

The corporate governance model of the EU, which is based largely on the Anglo-American model with its emphasis on shareholder value, has failed not only in the financial sector, but also generally in controlling risks and in promoting a sustainable long term perspective in corporate decision-making. The policy changes made so far have not adequately addressed these real problems and have not introduced the new structural elements needed for a sustainable framework for company policies and operations.

## VI

The most important concern with EU company law, in particular with its soft law regulation of corporate governance, has been that, within this framework, company models other than the Anglo-American shareholder value are regarded as restrictions of the internal market, since they complicate restructuring and movement of corporations within the EU. Shareholder value and independent directors are the slogans of our time, whereas employee representatives on the board and worker participation tend to be seen as oddities and are regarded as obstacles to a well-functioning internal market.

## V

The economic crisis creates important momentum for re-establishing and strengthening worker involvement in different forms: information, consultation and participation in the company. One of the underlying reasons for the present crisis is that the labour law system has failed to act as a countervailing power to restrict increase in economic inequality and union decline. Strengthening the power of workers by giving them capabilities for making their voice heard might help rebalance the system.

## VI

Worker involvement is important for many reasons, including to:

- Strengthen democracy, enable dispute resolutions and a social dialogue at the workplace.
- Give a stronger voice to those with a long-term interest in the company.
- Ensure that information on what is going on in the company (at different sites and on the shop floor) reaches the management and board.
- Act as a whistleblower vis-à-vis the authorities to report unethical behaviour or corruption.
- Check excessive levels of top executive pay.
- Guarantee local and national representation in boards, since more and more shareholders are based in foreign jurisdictions and lack detailed knowledge of national traditions and institutions.

Furthermore, research shows that worker participation is good for productivity and well-being of workers and that a well functioning participation system can create a win-win situation.

## Legal context

### VII

Employee influence is now a fundamental right under the Treaty on the Functioning of the European Union (TFEU), however, this right has to be realised in practice through various forms of worker involvement (in the sense of information, consultation and representation at different levels of the company). TFEU articles 152 (on *dialogue between the social partners*) and 153.1-e and f (the Union shall support and complement the activities of the Member States in the following fields: *the information and consultation of workers; representation and collective defence of the interests of workers and employers, including codetermination*) provide a starting point for ETUC demands.

### VIII

Within the EU, workers and their representatives have a fundamental right to information and consultation. Board level participation rights can be regarded as a method of providing workers with information, and also create consultation opportunities. These participation rights can ensure and implement the fundamental right to information and consultation. This constitutes an obligation for the EU to respect and promote board level employee representation and similar rights at a national level and not to undermine them through action or legislative measures.

### IX

There are four ways in which the EU regulates the right to information and consultation:

- a/ It is a fundamental right under the EU Charter of fundamental rights (article 27).
- b/ It is regulated for certain typical situations where information and consultation has been regarded as important (Directives on collective dismissals, Transfers of undertakings, Health and safety etc).
- c/ It is regulated in a general framework Directive 2002/14/EC which confirms its status as a part of the European social model. Information “means transmission by the employer to the employees’ representatives of data in order to enable them to acquaint themselves with the subject matter and to examine it”. Consultation “means the exchange



of views and establishment of dialogue between the employees' representatives and the employer".

- d/ It is regulated for certain types of EU-level cross-border situations (European works councils, SE- and SCE-companies, cross-border mergers (Directive 2005/56/EC), take-over bids).

## European minimum standards for worker involvement

### X

The ETUC is convinced of the need to make full use of and improve the instruments providing rights to information, consultation and participation. As a starting point, the ETUC calls for strong European minimum standards for worker involvement to strengthen workers' rights to information and consultation in the EU and to ensure that the EU respects and promotes different forms of board level representation in Member States where such systems exist and in European legal entities such as the SE, SCE and proposed SPE. It is vital that such minimum standards prevent the registration and location of the seat of companies solely or mainly with the intention of avoiding worker participation.

### XI

In order for cross-border information, consultation and other participation rights to function properly, the legal framework at EU level has to be improved. One important and urgent improvement in this area is that all the legal forms of company entities at the EU level (SE, SCE and proposed SPE) must be subject to binding rules and regulations on information and consultation with employee representatives regarding cross-border issues and on worker participation in company boards. Companies that have operations in several countries should be covered by the regulations that entail the strongest rights for worker participation. When EU regulations are designed and applied, great consideration must be paid to different national traditions regarding worker involvement. The following criteria should be applied:

- Existing rights should not be undermined ('before and after principle').
- Anti-regression clause: European standards can never be an argument to lower national or European rights. The EU regulatory framework must respect and support national regulations and practices in this area.

- Basic standards must be designed in a manner that rules on participation will apply to companies that grow above important thresholds.
- The goal must be to achieve as much influence for workers as possible.
- The right to have negotiations on employee involvement and the possibility for the social partners to draw up their own negotiated solutions should exist, as well as the right to better provisions in collective agreements. These rights should apply in all cases where European company law (European legal entity, cross-border mergers, take-overs, etc.) is at stake.

## XII

A legislative general framework instrument should be developed that would achieve better coherence in the rules on worker participation for SE- and SCE-companies and also solve some of the legislative problems relating to the proposal for an SPE Statute. The objective of such an instrument would be both to enhance participation (and thereby promote the dialogue between management and labour) and to promote the functioning of the internal market, more specifically to implement the freedom of establishment (TFEU Article 49).

## XIII

An important aspect is to guarantee the existing or established best practice when companies from different jurisdictions merge together or when the restructuring processes of existing entities result in the establishment of a European legal entity. Criteria for assessing this must be laid down as well as triggers for renegotiation in the case of structural changes of the entity (e.g. activation of shelf SEs, large increase in the number of employees etc). The registration of a European legal entity should not be possible if the issue of worker participation has not been resolved. These rules should apply regardless of where the company/legal entity is established or functioning. As soon as it takes on a European legal form the requirements should apply. The SE-directive and SCE-directive offer a good starting point for this general framework instrument. It should be a flexible instrument while ensuring at the same time substantial binding minimum standards with essential procedural requirements and arrangements.

## **XIV**

The majority of EU Member States have some form of board level employee representation system at national level. The systems are different and the thresholds (numbers of employees) for their application show remarkable variations. While respecting the diversity at national level it should be emphasized that board level participation is a common means of making sure that worker representatives get adequate information on a timely basis. It is an important means for increasing trust and cooperation.

## **XV**

To enable board representation, employees and trade unions should have the right to demand participation in the highest decision making bodies in companies with a European form. In order to ensure that this right covers a substantial number of European companies, the minimum threshold for the application of this right should be quite low, for example all companies with at least 25 employees and operations in two or more countries should be covered.

# SOLIDARITY IN THE CRISIS RESOLUTION SUBMITTED BY THE ETUC EXECUTIVE COMMITTEE TO CONGRESS

Adopted by the Executive Committee  
on 28 April 2011

The ETUC expresses its deep alarm at the failure so far of the EU-led bail-outs of economies in distress. The austerity measures imposed have made the situation worse, and the countries concerned face a long period of continued recession, rising debt burdens and unemployment. There is a real risk of countries defaulting with huge dangers for Europe and its Member States.

The ETUC calls for a change in the EU's approach and for it to provide greater help, including:

- a major European investment plan, funded among others by the current non use of European structural funds,
- the EU and the ECB should be prepared to ease the strains on the distressed economies by issuing their own bonds,
- the ECB should provide as cheap liquidity to Member States as it is providing currently to the banking sector.

The Euro Plus pact (concerning the 17 Euro zone Member States and six others) has far reaching implications particularly on pay since it includes recommendations to member states on:

- comparisons of unit labour costs,
- hostility to wage indexation and more generally to centralised bargaining,
- linking pay to productivity, not including inflation or comparability,
- downward pressure on public sector pay and, in some cases, on minimum wages,
- downward pressure on pension entitlements,

- promotion of strict constitutional controls on public debt (i.e. the so-called 'debt brake').

The ETUC asserts that this approach is totally unacceptable to the trade unions of Europe and insists that the following five principles must be upheld:

- wages are not the enemy of the economy but its motor, prompting growth and jobs,
- the autonomy of social partners in collective bargaining and wage negotiations,
- maintenance of the purchasing power of workers' wages and salaries, with increases being in line with inflation and productivity,
- the trend towards income inequality should be reversed,
- the fight against wage dumping must be intensified,
- pensions should be protected, and rules on public debt should reflect external realities and exceptional circumstances.

Congress considers that early in the next mandate there will be an urgent need to examine the full implications of the Euro Plus Pact and its provisions on pay, which are likely to introduce an element of wage competition. This examination will also take account of the various propositions on minimum wages which have been submitted during the Congress preparatory phase.

The new Executive Committee is to be charged with conducting this examination with a view to maximising unity and coherence in the face of some of the most difficult circumstances ever faced by the ETUC.



**JUNE 2011**

# GREECE NEEDS A SOLIDARITY PACT

## I

The Greek Parliament voted for the austerity package that was forced on them by the EU the IMF and the ECB. This vote offers a few more weeks to politicians to find sustainable solutions for the future of Greece, but it will not bring Greece back to recovery.

## II

If not handled with the necessary vision, the situation could degenerate in an economic and social catastrophe not only for Greece but for the EU as a whole. The European Finance Ministers on 3 July and subsequently must not simply endorse the same failing policies.

## III

The people and workers of Greece are being made to pay for the mismanagement of politicians and speculators – in particular the previous Government and the banks that advised them while betting on their failure. Popular unrest is deep. The tremendous efforts required are not spread to make the rich and comfortable assume their responsibilities. Strikes called by Greek trade unions reflect the workers' anger at being governed by the markets and their oligopolistic and self-serving rating agencies that impose decisions over democratically elected governments. The major expansion of privatisation programmes under direct EU control, the undermining of labour market institutions, represent clear and questionable interventions in Greek national autonomy.



## **IV**

EU leaders must now show leadership. Another course of action is necessary. It should be based on a more generous offer for Greece and other distressed countries - a new Marshall Plan. Such a plan would insist on tax collection, taxes on the rich and comfortable in the distressed countries, taxes on financial services and transactions, use of structural funds available for investments, Eurobonds, project bonds, growth and innovation initiatives in line with the Europe 2020 strategy, less pressure on wages, welfare and public services and on the poorer section of society. Finding a pan-European solution should be considered with regard to the debt of the distressed countries as ETUC has proposed.

## **V**

The road to recovery must come from an EU solidarity pact, with the active involvement of trade unions in Greece over the use of the funding made available, and a medium and long term investment programme for the creation of jobs and capable of bringing the country back to a sustainable economic development. Trade unions must be involved at all levels in drawing up plans for growth and innovation, as well as for debt reduction.

## **VI**

The European Trade Union Confederation expresses its solidarity with its affiliates GSEE and ADEDY dealing with anger and despair of workers and citizens, striving to avoid social chaos and to restore fairness and decent treatment for Greek people.

# ETUC RESOLUTION NUCLEAR ENERGY: SAFETY, SECURITY AND DEMOCRATIC CONTROL

Adopted by the Executive Committee  
on 28-29 June 2011

Following the dramatic events in Japan, at Fukushima, some EU member states have decided to abandon the use of nuclear power or have taken concrete steps to start phasing it out, while others intend to continue using nuclear power facilities.

The ETUC confirms and does not question the fact that under the EU Treaties any decision on a country's specific energy mix, including the use of nuclear energy, is a matter for the individual sovereign state. The ETUC will therefore refrain from taking a position on the future of nuclear energy, recognizing that a number of countries have decided to withdraw from nuclear power or put in place moratoriums. The ETUC demands that, regardless of the choice of each member state, nuclear safety and security be strongly reinforced, and calls for a democratic public debate on the future of the European energy policy, involving all stakeholders (trade unions, enterprises, political parties, social groups).

These demands were already stressed in the ETUC's December 2010 Resolution on Energy Strategy for Europe in which the ETUC reaffirmed, among other things:

- The need for a common European energy policy of general interest to be promoted by a democratically controlled European Energy Agency.
- The need to diversify the energy sources by developing renewable energies and other low CO2 emitting alternatives such as combined heat and power.
- The urgency to increase energy savings and energy efficiency in the industry, building and transport sectors, with binding European targets.

- The need for a European energy solidarity pact reinforcing the European cooperation which would go beyond merely coordinated but fragmented national markets, with a strong role for public authorities.

These demands remain central to tackling the current absence of a coherent and sustainable European energy policy. This resolution complements the earlier broader resolution and provides a more detailed perspective on the current EU policy towards nuclear safety and security.

Fukushima has shown that there cannot be zero risk when it comes to the nuclear industry and its supply chain, as it is the case for all industries. Moreover, recognising the scale of risks for the general public as well as the specific risks for nuclear industry workers, the ETUC demands that this industry be treated with the highest possible caution, transparency and democratic control, whilst recognising that other industries also involve risks that need to be addressed.

Above all, the ETUC extends its sympathy to those affected by the catastrophe in Japan. We insist that the general public be protected against radiation damage. Workers' exposure to radiation must be as limited as possible and when exposed to radiation, workers must be fully treated for health concerns and generously compensated. This compensation should also be extended to victims' families.

In a nuclear accident, the first victims are always the nuclear industry and plant level workers, who sacrifice their health and even their lives in order to reduce the risks for others. For Fukushima, as for Chernobyl previously, the formerly densely-populated areas up to 30 km around the power plants will now be uninhabitable for decades or even centuries. No adequate insurance protection exists for this scale of human and material damage. Liabilities for the companies involved have to be raised considerably to prevent that the costs of cleaning up, in the case of an accident, fall disproportionately on the general population.

Without entering into the current national debate on the future of nuclear energy, the ETUC stresses that one of the lessons learnt from Fukushima and Chernobyl is that radiation does not respect national boundaries. Therefore, Europe must have high and uniform safety standards for

the operation of nuclear power plants and the storage of depleted fuel rods and other waste, taking into account natural, technological, terrorist, aviation and human risks. It is the responsibility of the EU to ensure the highest possible level of safety and security in Europe by pushing member states to enforce standards in order to avoid nuclear accidents and to minimize the consequences in case of accidents. This means that the following should be guaranteed:

- 1/ Planned stress tests, audits and safety inspections of all nuclear power plants and facilities including storage (civilian and military) in the EU must be conducted on the basis of the latest scientific and engineering knowledge and standards. The tests should take into account the human factor (work organisation and conditions, subcontracting). All reactors must be transparently tested, audited and reviewed by independent nuclear control authorities. In case of failure, public authorities must ensure that the failed facilities are stopped immediately, to be decommissioned, retrofitted or refurbished, subject to further tests. The ETUC urges the EU and member states to publicly publish the results of these stress tests and audits, ensuring high standards of public information and communication.
- 2/ Increased efforts in research and engineering, the development of public authorities' powers to control the industry, and the need to ensure security and the safety of the workforce (throughout the life cycle) and the general public, should take precedence over profitability in industry thinking. High and equal safety provisions for nuclear facilities are also crucial to ensure fair competition. This should be achieved without delay. For public security, it is unacceptable that operators use inadequate safety provisions to achieve a competitive advantage. Safety standards must be laid down internationally, and where necessary, at European level, existing international standards must be tightened up.
- 3/ Workforce whistleblowers raising safety concerns on plants must be protected from reprisals. Furthermore, the views of workers should be taken into account, since they have the clearest view on the industrial reality in nuclear plants and facilities.

- 4/ Action is urgently needed to guarantee clear and coherent social and employment management in the sector and its supply chain. To reinforce security in the industry, the working conditions of all workers regardless of contract or task must be maintained at a high level. Subcontracting and agency work should be tightly limited and if used, workers must enjoy the same protection as regular employees, particularly in terms of training, health and safety protection, working conditions and pay. The ETUC calls on the EU to publish national and plant level data on subcontracting and agency work in the nuclear power sector. The ETUC is deeply concerned that work organisation in the nuclear industry in Europe is increasingly dominated by large-scale use of subcontracting, (in some cases) inadequate training, dangerous exposure levels for the workers concerned, and in all likelihood a consequent loss of reliable control over the most critical stages of processes. Moreover, ensuring the working conditions of those in the global supply chain, especially the extractive, mining and waste management industries, must be addressed by governments and the industry.
  
- 5/ Trade unions and work place representatives should be informed and consulted on the conduct of the nuclear stress test in their company, allowing additional expertise when required. The results of the stress test and especially the conclusions which are drawn are to be presented to the unions and workplace representatives. In case decisions are taken to close power stations, adequate measures are to be considered with the trade unions to protect employment and to ensure long-term investment in a skilled force to deal with decommissioning continuing to guarantee the highest levels of security and health and safety protection.

This is particularly crucial in light of the opening-up of the electricity market. This may prove to be incompatible with the demands of security and the risks inherent in nuclear energy, insofar as this technology demands utter transparency, very strict regulation and optimum social conditions. Experience shows that these public requirements cannot be guaranteed in a liberalised market. Full transparency on the real costs must be ensured and submitted to a publicly accountable European Energy

Agency to be created, as proposed in the ETUC resolution on a energy strategy for Europe (December 2010).

We also insist on the importance of maintaining and bolstering the skills necessary for the full lifespan of these power plants, in the decommissioning phase and in waste management, etc.

Finally, the pursuit of research into the effects of radiation should be stepped up. While, making nuclear plants safer for those countries that have included nuclear in their energy mix requires a step-change in democratic accountability based upon transparency and a high level of information. Elements to address would include more efficient plants, reduced exposure to natural as well as terrorist risks, lenient uranium consumption, and better development of nuclear waste management, which is currently lacking.

Taking into account the fact that improving security systems will increase the investment costs and extend the construction time of nuclear power plants, steps should be taken so as to ensure the security of energy supply, energy independence and affordability for workers and industries, while protecting the most vulnerable.

**SEPTEMBER 2011**

# FOR A STRONGER EUROPE OF SUSTAINABLE GROWTH AND SOCIAL COHESION

Statement adopted by the ETUC Steering Committee  
in Wroclaw on 16 September 2011

## I

During summer 2011 the Eurozone came to the brink of collapse. Short term actions were urged by Governments, EU Institutions and the ECB united only in insisting on austerity programmes rather than progressing towards more comprehensive and long term socially-acceptable solutions.

## II

The sovereign debt crisis is getting out of control. Financial market distrust is no longer contained to Greece, Ireland or Portugal but is contaminating countries such as Spain and Italy and threatens to spread more widely. Markets remain volatile and have not been convinced of the durability of the measures decided by the European Council on 21 July to strengthen the lending capacity of the EFSF and to give it the competence to buy distressed sovereign debt. Delays at national level in bringing those conclusions into effect have led to further confusion.

## III

Sovereign debt that was initially manageable becomes unsustainable because all investors start running for the exit at the same time and because the means (Eurobonds) and institution (European bank for sovereign debt) having the power and financial means to counteract the negative influence of financial markets do not exist in the Euro area.

## IV

The financial support European institutions are providing is not working, but the price to be paid for it is high. Member states are forced by



the ECB, the Commission and the IMF to adopt an overambitious pace of fiscal consolidation, to deregulate job and social protection systems, to weaken and decentralise wage formation and collective bargaining systems. We opposed the latest demand, formulated by the German and French governments, to push all Euro Area countries into writing a zero deficit or debt brake into national constitutions.

## **V**

To prevent contagion, policy makers have relied on debt cutting. Debtor-friendly debt restructuring has been ruled out. The ECB even threatened to refuse to accept sovereign debt as collateral in case of restructuring.

## **VI**

In addition a new economic slowdown is unfolding. Leading business cycle indicators have turned downwards. Whereas activity is grounded almost to a halt or markedly slowed down in many core economies in Europe, peripheral economies are stagnant or declining.

## **VII**

A new credit squeeze cannot be ruled out either. With the sovereign debt crisis looming over the balance sheets of banks, European banks find it increasingly difficult to fund themselves on the interbank market. This may very well result in tighter credit conditions, thereby transforming the announced slowdown into an outright recession.

## **VIII**

Member states do not have much fiscal ammunition left to allow the automatic stabilizers to work, let alone to relaunch the economy, or are unwilling to use it.

## **IX**

Siren voices in some countries have advocated a return to national solutions, including the break-up of the Euro Area. The ETUC rejects that course of action. A renationalisation of European economic policy would have disastrous consequences on workers' conditions; our economies are interlinked through the internal market and the single currency. It would also risk giving an impetus to right-wing populism.

## **X**

The pursuit of short-term solutions has led to austerity policies on those countries threatened by sovereign debt crises, demands for high interest rates and even insisting on bilateral collateral agreements. This is not in the well-understood interest of core economies. Allowing the economies with distressed debt to sink into a long term economic depression will destroy the core's export markets. Failure to swiftly resolve the periphery's debt crisis will weaken the bank and financial sector of the core.

## **XI**

A break-up of the currency area, called for by some as a supposed quick fix for current debt and competitiveness problems threatens unforeseeable and almost certainly dramatic economic dislocation. Peripheral countries would be forced to default in disorderly fashion on all their euro-denominated debt, threatening the entire European financial system. Core countries would face an immediate and substantial appreciation of their currencies which would choke off growth in the short run and exert massive downward pressure on wages and working conditions in the medium run.

## **XII**

Current austerity policies, including the Golden Rule, are fostering unemployment and rising inequalities. Workers in a number of countries are facing frontal attacks on their acquired legal rights enshrined in European legislation and international instruments. Conditions are being set unilaterally by Institutions and the ECB acting beyond their competences. Some governments are using the crisis to dismantle social provisions that are the bedrock of the European social model.

## **XIII**

Wages are not the enemy of the economy but their engine. Unleashing a 'race to the bottom' on wages and welfare policies will undermine demand dynamics and threaten deflation across the entire monetary union.

## **XIV**

The ETUC reiterates that conditionalities to be attached to economic and social integration should fully respect national wage setting systems and the autonomy of the social partners.

## **XV**

Social unrest in many countries is not surprising – youth unemployment, precarious work, unequal treatment are rejected by the people, who only see austerity and attacks on their rights coming from EU policies.

## **XVI**

The ETUC has made proposals concerning Eurobonds; a partial transfer of national sovereign debt into European debt up to 60% of GDP; setting up a European Bank for sovereign debt with access to the ECB's liquidity operations; a European public rating agency; a European investment program to revive the most hardest hit economies, helping distressed economies to restructure debt; investment in infrastructure and jobs for a transition to an energy-and resource-efficient model; dropping the co-financing requirements for the structural funds for countries in difficulties and the involvement of trade unions in the management of projects; new sources of European taxes such as an FTT; a harmonisation of the corporate tax base along with a minimal tax rate as part of limiting fiscal dumping; and action on tax evasion and the abolition of tax havens. Taken together these proposals can show the way out of the existential crisis we are facing.

## **XVII**

The ETUC Congress last May reaffirmed our commitment to further economic and progressive social integration in Europe to get out of the crisis and stimulate growth, employment and social cohesion. We are committed to defending and promoting the European Social Model. We must all be mindful of the need for democratic support and control in advancing our European ideals. This cannot just be a technocratic exercise. We must bring the people of Europe with us.



**OCTOBER 2011**

# ETUC DECLARATION ON THE CURRENT ECONOMIC SITUATION

Adopted by the Executive Committee  
on 19-20 October 2011

## **An extremely dangerous situation**

The economic situation of the Eurozone has gone from bad to worse during the last period; it reached extremely dangerous levels during the last weeks and days.

At the same time, the social situation is deteriorating dramatically: inequalities and poverty are rising; unemployment, particularly youth unemployment, has reached intolerable levels, over 20% in most countries and over 40% in Spain and Greece.

The situation is now exacerbated by a new banking crisis, resembling the one in 2008. Governments had to intervene to support the ailing Dexia bank, although Dexia, a few months ago, successfully passed the stress tests. Similarly, a number of European banks are exposed because of the nature of their assets.

Since the last banking crisis, banks have made substantial profits and, instead of reducing their exposure to risks, they distributed these profits to shareholders and bonuses to bank managers. Once again they are asking for a rescue from the state, leading to more debt and more austerity. Once again workers and their families are asked to pay for the banks. It is time to put an end to a dysfunctional system where workers are prisoners of casino capitalism.

At the same time, the situation in Greece is deteriorating. Forced by other Eurozone members, the ECB and the IMF to implement an unprecedented

programme of cuts and privatisation, the Greek economy has fallen into depression. In this condition it is difficult to see how the country could repay its debts. A Greek default, as advocated by some politicians, would precipitate the crisis further.

Portugal, Ireland, Spain, and Italy are in an unstable and highly problematic situation. Credit rating agencies have warned Belgium and France that triple A rating is under scrutiny. This indication already triggered an increase in interest rates and makes the return to balanced budget an even more remote perspective.

If the crisis rolls on, the domino effect will reach the currently stronger economies. This would mean a spiral of sovereign defaults, banking collapses, unemployment, falling wages, fiscal retrenchment and all-round misery and not only in the Eurozone but in all EU countries. At that stage, the Eurozone and the European Union will be at stake.

### **Economic solidarity is needed to overcome the crisis**

It is very difficult to see how the crisis would be overcome without stronger countries financially supporting weaker ones. Although extremely demanding, this seems the only way out. To achieve this, a constructive dialogue with trade unions for a fair repartition of the burden would be indispensable.

From the early days of the crisis the ETUC has been calling for economic solidarity, taking the form of Eurobonds to facilitate investments for sustainable jobs, a financial transaction tax to contribute to repair, at least partly, the damages of speculation, the non-bureaucratic use of the reserves in the structural funds with an active participation of the social partners, fair taxation, the end of tax havens, tax fraud and evasion and a halt to tax competition.

ETUC is open to other forms of economic solidarity which might be acceptable, like the EFSF issuing bonds or guaranteeing loans.

Decisions taken on 21<sup>st</sup> July 2011 by the Eurozone were a step in the right direction; the democratic process to implement them is necessarily slow.

Strong doubts have to be overcome to convince some member states to lend more money to Greece. However, since 21<sup>st</sup> July 2011 the situation has considerably deteriorated, and the answers given then are most probably insufficient today.

## **Economic and social governance is necessary**

A common currency needs common rules. It cannot function properly if member states go their own way and pursue economic policies that diverge and fail to consider the impact their policy has on other members. But a common currency also needs the right set of rules. A stronger European coordination of national economic policy should aim to promote economic recovery, to create more and better jobs and to ensure upwards convergence of working and living standards.

The rules defined by the European Parliament, Council and Commission in the “six pack” shift the burden of the crisis to workers and their families. If governments during the 2009 recession would have been forced to follow the rules which the economic governance package is now seeking to impose, the economy would have been pushed into a full blown depression.

Euro area imbalances were exacerbated by downwards competition on wages and precarious work practices, combined with irrational debt and asset price booms. Alleged “irresponsibly high” wage increases had little or nothing to do with this.

There is a real danger that these rules will be used to push for brutal fiscal austerity, to impose excessively high and fast deficit reduction targets and systematically roll back social benefits, public services and public investments. Decentralised and uncoordinated bargaining along with downwards flexibility of wages, would be promoted so as to weaken the bargaining position of workers and trade unions. Downward wage competition within countries and between countries might follow. This would in turn foster a further increase in precarious work and inequalities.

To address this danger, the ETUC will systematically use the wage safeguard clause of article 1 of the regulation on excessive imbalances. This



clause states that *“The application of this Regulation shall fully respect article 152 FTEU and the recommendations issued under this Regulation shall respect national practices and institutions for wage formation. It shall take into account Article 28 of the Charter of Fundamental Rights of the European Union, and accordingly shall not affect the right to negotiate, conclude and enforce collective agreements and to take collective action in accordance with national law and practices”*.

Any attempt by the Directorate General for economic and financial affairs or the Council of Finance Ministers to use the new excessive imbalances procedure to weaken wage formation systems, to put pressure on wage and collective bargaining outcomes or to impose labour market reforms will be combated by the ETUC as being in contradiction with article 1 of the Regulation and the principles of article 152 of the Treaty of respecting the autonomy of social partners and the national systems of wage formation.

ETUC stresses that all European policy processes (EU 2020 country or Euro Plus Pact recommendations), even if these are not legally binding, must respect the autonomy of social partners and the fundamental social goals of the European Union, which include social progress, social justice, a high level of employment, and the upwards convergence of working and living standards.

### **Against austerity and intervention in wage setting systems**

Instead of concentrating on finding long term solutions for sustainable growth and economic solidarity, authorities have focused their efforts on imposing austerity measures in all countries in difficulties; we have seen none of the expected results. Interventions in the collective bargaining and wage setting systems by the Troika and/or the ECB in Greece, Italy and other countries are unacceptable.

### **Against attacks on fundamental social and trade union rights**

ETUC considers that the current situation is unfortunately used as an opportunity by those neo-liberals who want our economies to be fully in the hands of the markets, to attack the European social model.

The Commission, the ECB, the IMF and national governments have chosen to link their economic support to initiatives that dismantle social dialogue, proper industrial relations systems, the autonomy of social partners, and collective bargaining coverage.

The ETUC will never accept such attacks which go against fundamental rights, including trade union rights, as guaranteed by the Charter of fundamental rights and by national constitutions.

### **Concluding remarks**

Our route was and is the right one. The ETUC stands and will continue to stand for sustainable economic growth, against the governance of austerity and economic stagnation, for economic solidarity and the right set of economic governance rules. Instead of attacking the social model and trade unions, European political leaders must take the necessary decisions to stop a full scale European and worldwide depression.

Fundamental social and trade union rights and the autonomy of social partners are part of our democratic systems. They must be defended and promoted by the EU. With this as a basis, the ETUC is ready to take part in a dialogue for a constructive and fair way out of the crisis.

# ETUC DECLARATION ON THE 50<sup>TH</sup> ANNIVERSARY OF THE EUROPEAN SOCIAL CHARTER

**Resolution adopted by the Executive Committee  
on 19-20 October 2011**

The European Social Charter (ESC) has, since its adoption on 18 October 1961 by the Council of Europe, contributed to the improvement of working and living conditions of people in Europe. It is one of the last safeguards to protect workers and citizens, in particular the most vulnerable. The Charter was the first international social standard to explicitly recognise the right to strike. It was also innovative in respect of the right to work, fair working conditions and fair remuneration to mention some of the 19 social rights guaranteed in the Charter. They must all be fully respected and effectively implemented.

These rights were extended and now form part of the 31 social rights enshrined in the 'Revised European Social Charter' (RESC) adopted in 1996. 43 of the 47 Member States of the Council of Europe have either ratified the original Charter or the revised one. However, only 14 Member States are bound by the Collective Complaint Procedure Protocol which allows trade unions to raise issues concerning violations of the Charter.

At European level, the Charter has served as a point of reference in EU primary law, for example in the recitals of the Treaty on the European Union and in the 'Social policy' Title of the Treaty. Most of the fundamental social rights in the Charter of Fundamental Rights of the European Union are based on the relevant articles of the Charter. Furthermore, the European Courts recognise its importance when interpreting EU legislation or the European Convention on Human Rights.

In times of crisis when social rights are being challenged, and even undermined, it is all the more important that social standards set a minimum

of protection. Member States trying to reduce fundamental social rights such as Greece, Hungary, Romania, the Czech Republic, Spain and Portugal would have to justify these measures in view of their obligations deriving from the Charter.

The ETUC has actively contributed to the development of the Charter, taken active part in the supervision procedure and remains strongly committed to the whole system of the Charter.

On the occasion of the 50th anniversary of the Charter, the ETUC therefore:

- recalls the importance of the Charter and its further developments in order to achieve a more social Europe;
- urges Member States to fully abide by their obligations deriving from these social standards and the respective case-law of the European Committee of Social Rights;
- calls on all Member States to use the momentum of the 50th anniversary to adhere fully to all the instruments developed in the framework of the Charter, in particular the RESC and the Collective Complaint Procedure Protocol;
- underlines the importance of the EU respecting these rights and taking concrete steps to adhere to the pertinent instruments; and
- calls on the Council of Europe and its institutions as well as the Member States to improve the effective implementation of the social rights enshrined in the Charter.

## **Attachment**

ETUC analysis of the European Social Charter and demands to improve its efficiency.

## **Making European fundamental social rights work effectively in practice**



### **Introduction: The European Social Charter as cornerstone of the fundamental social rights protection in Europe**

The 50<sup>th</sup> anniversary of the European Social Charter (ESC) offers the opportunity to take stock of the fundamental rights protection in Europe and to develop proposals to reinforce this protection and to contribute to social progress all over Europe especially in times of financial and economic crisis.

#### **1/ Aim of the European Social Charter**

- 1.1/ Promotion of fundamental social rights based on a human rights approach.
- 1.2/ Increasing the Charter's impact in international organisations, the judiciary, national administration, social partners, civil society and citizens.

#### **2/ Achievements**

- 2.1/ The Charter has been further developed mainly by the Turin Amending Protocol (1991), the Collective Complaint Procedure Protocol (1996) and the Revised European Social Charter (1996 - RESC).
- 2.2/ The ratification process by the Member States of the Council of Europe has led to the fact that only 4 Member states have neither ratified the ESC nor the RESC.
- 2.3/ A new dimension has been achieved by the quasi-judicial collective complaints procedure which offers the opportunity for the European Committee of Social Rights to give fundamental social rights a concrete meaning and a coherent legal background.
- 2.4/ The impact of the Charter has increased
  - 2.4.1/ Particularly in respect of the development of fundamental social rights in the framework of the 'Charter of Fundamental Rights of the European Union';
  - 2.4.2/ In respect of the references in European and national Court decisions.
- 2.5/ Positive consequences can be seen in many States in respect of improved legislation and better working and living conditions.

### **3/ Problems**

- 3.1/ Fundamental social rights are still often considered as '2nd class' human rights. The indivisibility of human rights is not applied sufficiently in practice.
- 3.2/ The economic and financial crisis has led to fundamental rights being undermined.
- 3.3/ The effectiveness of the fundamental social rights is not sufficient. The number of cases of non-conformity is still high, in particular in sensitive areas such as the right to collective action. Furthermore, problems which sometime have been criticised for decades are not solved by the respective Contracting Parties.
- 3.4/ The supervisory system of the Charter is not functioning as it should. In particular, the number of individual recommendations (which are the most severe consequences in cases of non-conformity) has nearly gone down to zero in the last years.
- 3.5/ Being applied as much as possible the non-application of certain provisions of the Turin Amending Protocol still causes severe problems.
- 3.6/ Inequalities between the States having /or not having ratified the Complaints Procedure Protocol are growing.

### **4/ Enhancing effectiveness by a new coherent approach for all involved:**

- 4.1/ All following proposed initiatives are to be seen as a set of measures aimed at a coherent approach for all addressees.
- 4.2/ The initiatives should reinforce one another.
- 4.3/ A strong political will needs to be developed in a sustainable way.
- 4.4/ In general terms, a strengthening of the ESC and Collective Complaints Procedure is necessary.

## **II**

### **Initiatives proposed in order to improve the efficiency of fundamental social rights**

#### **The ETUC urges**

- 1/ **the Member States of the Council of Europe and especially their respective Governments to activate the legal framework as well as the practical impact for fundamental social rights by**

- 1.1/ Ratifying at the latest until the 20<sup>th</sup> anniversary of the RESC in 2016 all relevant instruments and accepting the highest rate of acceptance of provisions possible by those countries not yet having done so, in particular
  - 1.1.1/the four countries not yet having any instrument and the countries not yet having ratified the RESC to do their utmost to ratify the RESC while accepting the highest numbers of provisions possible,
  - 1.1.2/the many countries not yet having accepted all provisions of the RESC to accept the highest numbers of provisions possible,
  - 1.1.3/the four countries still not having ratified the Turin Amending Protocol in order to allow its full implementation such as election of ECSR members by the Parliamentary Assembly to guarantee independence and impartiality of the Committee,
  - 1.1.4/the many countries not yet having ratified the Complaints Procedure Protocol;
- 1.2/ Ensuring an effective follow-up of any negative conclusions by the ECSR, in particular by
  - 1.2.1/Initiating at the appropriate (national/regional/local) level the respective changes in law and/or practice;
  - 1.2.2/Monitoring the outcome;
- 1.3/ Reinforcing within the European Union's framework the compliance with and the promotion of the Charter's standards, in particular by applying, in substance, the same approach to the RESC as to the Charter of Fundamental Rights of the European Union in respect of legislative and all policy measures; all institutions and above all the Commission, the Parliament and the Council should follow this equivalence approach and integrate it in their respective procedures;
- 1.4/ Raising of awareness, in particular by
  - 1.4.1/(eventually translating and) ensuring a wider dissemination of the ECSR 's annual conclusions and to at the national level;
  - 1.4.2/Organising seminars etc. in the judiciary, the universities, the public administration, social partners;
  - 1.4.3/Using all possible means to introduce the ECS's requirements in legal proceedings;

- 1.5/ Improving the reporting to the ESC's Secretariat, in particular by
  - 1.5.1/Sending the reports in time;
  - 1.5.2/Improving the content (i.a. by pointing more precisely to the specific problems in respect of implementation of the Charter's provisions);

**2/ the Committee of Ministers to open up a new framework for fundamental social rights by**

- 2.1/ Raising the political profile of the ESC in the activities of the Council of Europe;
- 2.2/ Enhancing ratification of the relevant instruments, in particular by
  - 2.2.1/Starting and continuing a general ratification campaign in respect of the relevant instruments – monitoring of the campaign at annual intervals,
  - 2.2.2/Ending ratification of the "Old Charter" (1961 version) and the (1st ) Additional Protocol (1988);
- 2.3/ Monitoring more effectively, in particular by
  - 2.3.1/Adapting the actual Reporting System by providing for an every two years reporting on most important ('hard core') articles (Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20),
  - 2.3.2/Revising of the Rules of Procedure of the Collective Complaints Protocol with the aim to guarantee the coherence between the Reporting Procedure and the Collective Complaints Procedure (v.g. Resolution of the Council of Ministers should be addressed to the Governmental Committee in the Cycle after the adoption of the Resolution to give time to Governments to put measures in place),
  - 2.3.3/Ensuring an effective follow-up to the conclusions in the reporting system and decisions in the complaint procedure system of the ECSR, i.a. by adopting recommendations more frequently and including in the recommendations concrete measures and respective timetables,
  - 2.3.4/Speeding up the internal procedure in order to allow for publication of the report of the ECSR before the time-limit of 4 months;
- 2.4/ Starting work on the accession of the EU to the Revised European Social Charter by giving the Steering Committee the mandate



- (terms of reference) to set up a Working Group with the European social partners as observers;
- 2.5/ Strengthening consultation with European Social Partners at all levels;
  - 2.6/ Increasing budgetary funds for more personnel and promotional activities;
- 3/ the Parliamentary Assembly of the Council of Europe to give fundamental social rights a more prominent role by**
- 3.1/ Conducting hearings on specific rights on regular basis;
  - 3.2/ Monitoring and further promoting the role of parliaments in the consolidation and development of social rights in Europe according to Resolution 1824 (2011) and Recommendation 1976 (2011) of 23 June 2011;
- 4/ the European Committee of Social Rights to fully use its powers, in particular by**
- 4.1/ Creating and/or intensifying contacts and dialogue with relevant institutions like the European Courts (European Court of Human Rights and the Court of Justice of the European Union) and international bodies supervising fundamental social rights (i.a. the International Labour Office in general and the ILO Committee of Experts on the Application of Conventions and Recommendations in particular, UN Committee of Economic, Social and Cultural Rights) in order to contribute to the coherence between case Law of the different supervisory bodies also in respect of the European Code of Social Security;
  - 4.2/ Trying to compensate the prolongation of the reference periods by additional measures such as giving information prior to the normal cycle;
  - 4.3/ Organising hearings/consultations with i.a. European Social partners;
- 5/ the Governmental Committee of the ESC to respond effectively to challenges, in particular by**
- 5.1/ Reviewing the rules of procedure in order to provide for an effective political monitoring, in particular according to the restructuring

and merging the Committee of Experts on Social Security with the Governmental Committee;

- 5.2. Reviewing the Working methods by providing, in particular, for
  - 5.2.1/ A strong position including proposals for individual recommendations against countries that do not submit the reports and/or do not provide in time the ECSR with relevant information;
  - 5.2.2/ An annual letter to delegates each year, with copy to
    - a/ their national administration,
    - b/ permanent representative within the Council of Europe and
    - c/ the national (representative) social partners, stressing their contribution to the reinforcement of the ESC and referring the national situations of non-conformity, the information provided and the Conclusions adopted by the GC;
  - 5.2.3/ An annual decision on the first time 'Negative Conclusion' being assessed orally according to an objective criteria
    - a/ Serious character of the situation,
    - b/ Importance of the rights concerned; (iii) Number of persons concerned,
    - c/ Number of collective complaints,
    - d/ Serious threaten resulting from conjunctural conditions, etc).

**6/ the Secretariat of the ESC to strengthen promotional activities by**

- 6.1/ Reinforcing awareness raising campaigns within public administrations, social partners and civil society, in particular by
  - 6.1.1/ Providing for seminars (including social partners);
- 6.2/ Translating the ECSR Conclusions in all languages of the Contracting Parties:
- 6.3/ Consulting regularly social partners;
- 6.4/ Intensifying cooperation with the International Labour Office.

# EUROPEAN COMMISSION'S TRANSPORT WHITE PAPER

Resolution adopted by the Executive Committee  
on 19-20 October 2011

## Introduction

In March 2011, the Commission published the White Paper “Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system” aiming to respond to the challenges facing the transport sector. Although the ETUC shares the Commission’s concern that the current transport system is not sustainable, the strategy presented by the Commission does not provide satisfactory solutions to the different challenges. The public service dimension is completely missing in the White Paper.

Furthermore, by setting the target date to achieve a more sustainable transport sector by 2050, the Commission gives up on its responsibility to act, although technological alternatives and short term measures exist that would impact significantly on the urgent need for reducing transport’s share in greenhouse gas emissions. The Commission promotes further continuing transport growth within policy frameworks “relying to the greatest extent possible on market based mechanisms” instead of taking responsibility in regulating trends and habits and in earmarking and using additional financial resources for much needed environmentally sustainable infrastructure.

## The public service dimension of transport

Mobility is important both for the quality of life of workers and citizens and for the functioning of the internal market at large. Transport services should allow for the harmonious development of a Member

State territory, including its most secluded areas, and express solidarity between all its inhabitants, regardless of their place of residence. Transport, therefore, cannot be treated as an ordinary economic service. This is clearly stated in the European Treaties. Article 14 TFEU expressly recognises the place occupied by services of general economic interest in the “shared values of the Union” as well as “their role in promoting social and territorial cohesion”. According to Article 36 of the legally binding Charter of Fundamental Rights, “the Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with the Treaties, in order to promote the social and territorial cohesion of the Union”.

The creation of a Single European Transport Area, as currently envisaged by the Commission, raises a number of serious concerns. First, the Commission aims to create “a true internal market for rail services” by opening the domestic rail passengers market to competition, which would include mandatory award of public service contracts under competitive tendering. Current rules on public procurement do not sufficiently allow for social and environmental criteria being considered in tendering and they should be revised before any further tendering can take place.

The Commission is simply following an ideological approach and ignores Protocol 26 of the Lisbon Treaty, which underlines the role of local, regional and national authorities to provide SGIs. The ETUC calls on the Commission to recognise the essential role of local and regional authorities in the organisation of their public passenger transport. The EU has been liberalising the transport sector for two decades but no serious evaluation has taken place. In order to learn from its mistakes, the EU needs to analyse the consequences not just in terms of the internal market but also measuring the effects on solidarity, cohesion and subsidiarity.

Secondly, the White Paper disregards a crucial aspect for the sustainability of SGEI: the financial compensation for public service obligation. The Commission is indeed intending to “remove tax distortions and unjustified subsidies” as “undistorted competition is part of the effort to align market choices with sustainability needs (and to reflect the economic costs of non sustainability)”. Without financial compensation, the service provider would not have an incentive to perform tasks which are

less economically profitable but fulfil an essential role in terms of social and territorial cohesion. In other words, free competition in the transport sector means that providers would select the most profitable parts of the service. The fundamental principle of accessibility for all users would be disregarded.

Thirdly, the ETUC cannot accept that the costs of transport would be reflected in its price “in an undistorted way”. The idea that public transport passengers should be paying the full cost of the service goes against the concept itself of public service but also counters the efforts to promote collective transport as an alternative to private transportation. Moreover, this means that some regions and services would be disadvantaged, in particular in less populated areas. The principle of universality, which is a defining principle of a public service obligation, would be set aside.

### **Quality jobs and working conditions**

As a counterbalance to the liberalisation of transport, the Commission claims that “market opening needs to go hand in hand with quality jobs and working conditions”. The White Paper, however, offers little solutions in this area. It appears that the Commission adopts a traditional internal market approach, whereby intervention in the social area is not motivated by the need to promote social progress but with a view to create sufficient convergence to remove the barriers to the internal market.

The White Paper encourages the “social partners in view of an agreement on a social code for mobile road transport workers, addressing also the problem of disguised self-employment”. Whilst the ETUC does encourage concrete initiatives aiming at tackling the difficult issue of fake self employment, the proposals exposed in the White Paper are very vague. It seems that the Commission is envisaging sectoral social dialogue to ensure a harmonised set of social, security and competition standards in road transport evenly applicable in the Member States.

The ETUC would like to emphasise that the Commission must not give up its key responsibility with regard to social, security and competition standards. The Commission needs to take measures to better enforce the sectoral legal framework, as well as to consolidate it to respond to the challenges.

The relevant sectoral organisations will have to discuss the opportunity of holding negotiations but already it is clear that this solution on its own cannot respond to the current challenges. The EU has no competence to fully harmonise labour law standards. It can only introduce minimum standards – a “floor of rights” below which Member States are not allowed to go but which they often improve. Besides, the EU legislator is under the obligation to respect the diversity of national industrial relations systems.

In other words, a European social code cannot mean that the national dimension of labour law should be bypassed. The role of the national legislators and social partners remains essential. A very problematic aspect with regard to cabotage is the lack of enforcement of national labour law and collectively agreed labour standards. More efforts should be put towards the increasing of national and cross border control measures, not their eradication. Moreover, the Commission needs to make sure that Member States enforce the Posting of Workers Directive and that it is implemented and controlled in conjunction with cabotage, and that they ensure that operators meet their tax obligations in those countries hosting cabotage operations.

Furthermore, the Commission proposes to establish in the aviation sector a “Europe-wide minimum service (...) and to encourage the European social partners to address the issue of prevention of conflicts and of disturbance of minimum service in the whole aviation value chain”. The ETUC will strongly oppose any interference with the fundamental rights to collective bargaining and collective action. Article 153.5 TFEU clearly states that the EU does not have any competence regarding the right to strike.

## **Conclusions**

The development of an internal market for transport requires a strategy that takes into account not only economic and environmental challenges but social as well. The Commission should impose rules based on safety, quality, accessibility and respect for the environment and working conditions on all operators on the European transport market. For this, it is necessary to move away from the current ideological approach, according to which the liberalisation of the transport sector is a key principle

whilst experience already shows that a free market approach does not per se contribute to the smooth running of public services (for instance the impact of liberalisation measures in the energy sector).

The ETUC therefore urges the Commission to adopt a radically new approach, taking into account the general interest dimension of the transport sector, and to look at labour standards not as a barrier to further liberalisation but as an essential component for the quality and the sustainability of the sector. Free markets alone do not generate sufficient incentives to ensure the fulfilment of public service obligations.

The ETUC supports the ETF proposal to set up a social and environmental observatory to assess the effects of liberalisation in the transport sector to date. The observatory should be responsible for analysing policies and measures related to transport and to make recommendations as appropriate. Assessments and studies that already exist should be disseminated widely. The European transport system will only be sustainable if the social pillar is strengthened. This should include the obligation to establish a social impact assessment before any decision is taken in this area.

The ETUC is calling for a moratorium on liberalisation in the transport sector until a proper evaluation of previous liberalisations has been conducted notably by the proposed observatory.

The ETUC is also demanding that the current public procurement framework is revised to allow for social clauses before any further expansion of tendering can take place.

# 04

## CLIMATE CHANGE NEGOTIATIONS: ETUC RESOLUTION ON EU POSITION AT DURBAN COP17

Resolution adopted by the Executive Committee  
on 19-20 October 2011

In December 2011, international climate negotiators will converge on Durban (South Africa) for the 17th Conference of the Parties (COP) to the UN Framework Convention on Climate Change (UNFCCC). With the Kyoto Protocol set to expire in 2012, these international negotiations are crucial to ensuring the future framework for the reduction of greenhouse gas (GHG) emissions.

### **International Demands: Avoiding a regulatory gap on emissions and implementing Just Transition**

The ETUC remains firmly committed to the creation of a global, fair, legally binding and ambitious agreement under the UNFCCC, in line with the International Panel on Climate Change (IPCC) recommendations of greenhouse gas emissions reduction for developed countries (including the EU) of at least -25 to -40% based on 1990 levels by 2020, and -80 to -95% by 2050 to avoid an increase in global temperature of more than 2°C by 2100, including provisions ensuring a Just Transition.<sup>1</sup>

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1 In recent years, the ETUC has adopted a number of resolutions and positions on climate policy, together with the ITUC, shaped by various studies it has commissioned. This resolution is based on all this work and positions, including on the most recent resolution “for a sustainable new deal for Europe : [www.etuc.org/a/7743](http://www.etuc.org/a/7743)



## II

The ETUC urges the EU to speak with one voice and take a unified and strong position in advance of and during the COP17 in Durban.

## III

Considering the very slow pace of international negotiations and attempts by certain governments to usher in a 'voluntary pledge' system, it is important to avoid a regulatory gap in international emission reduction commitments and to preserve the legally binding and top-down aspects that a 2<sup>nd</sup> commitment period could bring. Therefore, in the absence of a global agreement, the ETUC calls for a minimum of a second commitment period for the Kyoto Protocol based on strong and ambitious emission reduction targets, increased transparency and clear monitoring, reporting and verification (MRV). Accordingly, in this case, the ETUC supports the high-ambition model for the second commitment period for the Kyoto Protocol by which:

- All Annex I (developed) countries, with the currently unavoidable exception of the United States, should join a second commitment period including the highest emission target already 'pledged' or more, in function of and with due regard to the IPCC scenario pointing to the need for a reduction of global greenhouse gas emissions by at least 25 to 40% by 2020 from 1990 emissions levels in the industrialised countries.
- Non-Annex I countries join this effort with voluntary pledges either on emissions reductions or other forms of actions in support of low-carbon development below business as usual, either through the KP or the Long-Term Commitment Agreement (LCA) as appropriate. The ETUC supports the EU's insistence on clear targets from the emerging countries to cut their emissions in-line with IPCC recommendations.

## IV

Under this scenario, the Durban conference should also lead to a road-map designed to bring about such a global agreement as quickly as possible, and could include a review date at 2015 to take into account new scientific evidence from the IPCC's Fifth Assessment Report in due time.

## V

Whatever the type of agreement to emerge from the Durban negotiations, the ETUC supports the demands of the ITUC, including the demand for the ILO's role in the UNFCCC process to be beefed up and for it to be given a mandate recognising it as the United Nations agency specializing in labour issues.

## VI

Trade unions have long called for a strong social and employment pillar in climate and energy policies. In the Cancun agreement resulting from the COP16 talks, Parties (including the EU): "10. Realize(s) that addressing climate change requires a paradigm shift towards building a low-carbon society that offers substantial opportunities and ensures continued high growth and sustainable development, based on innovative technologies and more sustainable production and consumption and lifestyles, while ensuring a just transition of the workforce that creates decent work and quality jobs;" (Cancun Agreement, I. A shared vision for long-term cooperative action, December 2010<sup>2</sup>).

## VII

For the ETUC, there are 5 pillars of Just Transition to a low-carbon Europe:

- Consultation between Government and key stakeholders, including representatives from business, trade unions, local government and regional bodies and voluntary organisations.
- Green and decent jobs through domestic investments in (new) low-carbon technologies, in R&D and innovation, and technology transfer. For the ETUC, all jobs that contribute to environmentally sustainable development are green. This spans all sectors and industries covering all workers; not only jobs in new emerging sectors, such as renewable energy, waste management and environmental protection services, but also the transformation and creation of jobs in existing sectors as they become "greener". For the ETUC, it is the quality as well as the quantity of jobs that is crucial – jobs must be at least in line with ILO standards on decent work.

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2 <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf#page=2>

- Green skills: Government-led, active education/training and skills strategies for a low-carbon, resource-efficient economy.
- Respect for labour rights and human rights: democratic decision-making and respect for human and labour rights are essential in order to ensure the fair representation of workers' and communities' interests at the national level.
- Strong and efficient social protection systems.

These principles should now be operationalised in the Durban COP17, notably in emerging international sectoral initiatives.

## VIII

Worryingly, there is a clear absence of financial commitments for the period 2013-2020, in the framework of the Fast Start Finance package concluded in 2012, as well as the absence of procedure to reach \$100 billion annually as from 2020. In Durban, Europe should commit funds for this period, a third of the total amount needed. This should be additional to EU member states responsibilities to provide 0.7% GDP in overseas development aid, and not substitute this earlier commitment.

## IX

In terms of REDD+ and other innovative ways to tackle deforestation in the third world, the loss of employment for forestry and forest industry workers needs to be taken into account. For example, REDD+ finance should be channelled into easing the labour market transitions from unsustainable (illegal) forestry into something more sustainable. To tackle deforestation what is most of all needed is the promotion of sustainable forest management, which ensures that forestry and forest industry will continue to employ workers, and forest-based communities' rights are taken into account, while the environment is also looked after.

### **Within Europe: Moving beyond business as usual and creating a Sustainable New Deal**

## X

Increasing concern about the economic future of Europe is currently dominating national and European political decision-making. The ETUC is deeply concerned that austerity measures will lead Europe into a

double-dip recession, resulting in even more unemployment, deeper cuts in salaries and pensions, increasingly insecure working conditions for young people and other workers, poverty, social exclusion and social inequalities, coupled with a reduction in measures to combat climate change.

## XI

It is likewise worrying that recorded reductions in greenhouse gas emissions in Europe are the result largely of the current prolonged economic crisis and the collapse of central and eastern European industry in the 1990s, rather than climate policies. Currently, the EU is set to achieve its current -20% target by 2020 as a result of these factors, despite disappointingly low achievements in energy efficiency and savings in the absence of binding targets.

## XII

Together with the impact of austerity measures, the low price for CO<sub>2</sub> (currently 14€/CO<sub>2</sub>T) will delay and complicate the investment needed to support the transformation of industries, promote infrastructure modernisation, and, consequently, bring about the transition to a low-carbon economy. As other regions globally invest heavily in active industrial policies and technological innovation, the risk of carbon leakage from Europe will increase if Europe stagnates further, which is one of the reasons why the ETUC believes it is essential to proceed without delay to reform the ETS<sup>3</sup>. It is essential in this context to ensure the global competitiveness of Europe's energy intensive industries by adequate measures, if necessary. Jobs and production processes in Europe must be made more sustainable in these industries. In this way, jobs losses to countries with considerably lower environmental standards and legislation must be avoided.

## XIII

In the face of the current assault on welfare provisions, social rights and collective bargaining systems, through aggressive austerity and reform programmes, worker attention is largely focused on promoting an alternative agenda to rapid spending cuts and increasing unemployment.

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3 See the ETUC resolution in October 2009 (<http://www.etuc.org/a/6594>) and the ETUC position in June 2010 (<http://www.etuc.org/a/7395>).

Central to this agenda is the ETUC call for a Sustainable New Deal for Europe, at the same time encouraging active, strong public policies and promoting investments in energy and resource efficiency, and creating and maintaining good quality jobs in Europe, through:

- the reform of existing funds to better integrate social and environmental conditions in project/loan criteria (EU budget, European Investment Bank, European Bank for Reconstruction and Development) and the creation of Eurobonds and a Financial Transaction Tax to stimulate sustainable investment and lever private capital towards sustainable economic development policies.
- a levy on maritime and aviation transport should contribute in financing the climate change policies through the Green Climate Fund. These measures should be implemented on a universal basis to avoid unfair competition and include a compensation mechanism to address equity concerns, especially in developing countries.
- urgently addressing the price of CO<sub>2</sub> in the carbon market. As stated in the ETUC Athens Strategy and Action Plan, “the European Union must give the right price signals to promote this transition, which could take the form of a CO<sub>2</sub> tax, subject to a series of conditions”<sup>4</sup>. This is crucial to address investment flows, supporting R&D and innovation in low-carbon technologies and processes.
- the creation of a European carbon market agency, modelled on ECHA and tasked with setting greenhouse gas emission reduction levels to be achieved through standards and benchmarks based on best available technologies, the full involvement of social partners, and market regulation to set standards for the European internal market (recognising WTO rulings on environmental protection standards), while contributing to sustainable development.
- the adoption of EU and national binding targets on energy efficiency and energy savings of at least -20% by 2020, plus the creation of large-scale energy efficiency programmes targeting energy production and manufacturing industries, the renovation of buildings (public and private sector), transport systems and workplaces (including through worker participation in programmes). This is one of the most

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4 Voir point 5.23 du 12<sup>e</sup> Congrès de la CES (2011).

cost-efficient ways to tackle climate change. Sources of funding need to be earmarked specifically to this end.

- the development of renewable energies and other low CO<sub>2</sub> alternatives, such as combined heat and power.
- in the context of a second credit crunch, the EU should ensure legal certainty for investors and be developing a strategy to guarantee the needed investments (in R&D) associated with transition technologies, such as clean coal technologies and carbon capture and storage. EU regional policies must better address the implications for coal-dependent areas.
- the strengthening of resource efficiency and closed-loop manufacturing policies, to promote a viable, bio-based economy. The calculation method of LULUCF emissions should promote the use of wood products from sustainable sources; moreover, wood should be seen first as a material, then compost and last as fuel. Products should be assessed on their environmental life-cycle contribution to reduced energy and resource use. This should be seen in light of the EU Roadmap on Resource Efficiency (September 2011).

## XIV

The ETUC and its member organisations have demonstrated the importance of addressing the social dimension in recent years, through a wide range of tripartite initiatives involving government, business and trade unions at EU and national levels, as well as through numerous studies and resolutions. In 2011, together with the interprofessional employers' organisations, the ETUC highlighted the substantial gains in economic terms, energy efficiency, employment security and job creation possible through social dialogue on climate change mitigation and adaptation. This experience at European, national, regional, sectoral and company levels should be better integrated into the EU's climate and energy strategies. The ETUC has also shown that there are problems in terms of precarious work in some companies linked to the green economy and that it is thus all the more important to ensure that dignified, stable jobs are guaranteed.

## **XV**

Despite the publication of a general Roadmap on emissions reductions to 2050 in March 2011, and sectoral initiatives on transport emissions (April 2011) and energy production (due in autumn 2011), the social dimension of EU climate and energy policies remains largely ignored by the Commission and policy-makers.

## **XVI**

The ETUC reiterates its position that these elements cannot be left to the market or chance. A poorly managed social transition to a low-carbon economy will result in higher social and economic costs and promote a backlash against climate policy.

## **XVII**

The ETUC calls for a European Just Transition Roadmap to implement this European commitment. The Roadmap should be drawn up in collaboration with the trade unions and should include: the active promotion of social dialogue at all levels, sectoral roadmaps including employment, education and training strategies, instruments on the anticipation of change and restructuring, the promotion of strong and effective social protection systems, and the respect for fundamental trade union rights and human rights.

## **XVIII**

Ensuring a fair regional impact, these policies are the necessary foundations for an increase in the EU's ambitions on the overall domestic target for greenhouse gas emissions reductions by 2020. The ETUC believes that without ambitious climate targets and decisive leadership on climate and energy policies, the economic, environmental and social situation will continue to deteriorate. Therefore the ETUC is convinced that to stimulate sustainable growth in Europe, increased ambition beyond business as usual scenarios will be necessary.

## **XIX**

Through increased binding energy efficiency standards and investment in renewables, the EU should ensure its domestic target reflects the IPCC's recommendation for developed countries: -25 to -40% domestic CO<sub>2</sub> emissions by 2020. This target should be seen in the context of a longer-term policy to achieve -80 to -95% by 2050 on 1990 levels, and might be pursued in Europe provided that the conditions for just transition are met.



# COMMENTS ON THE PROPOSAL FOR A DIRECTIVE ON ENERGY EFFICIENCY COM(2011) 370 FINAL OF 22 JUNE 2011

## Resolution adopted by the Executive Committee on 19-20 October 2011

At the end of 2010, the ETUC adopted positions on the Energy Strategy for Europe 2011-2020, presented in a resolution that contains an analysis and detailed proposals. That resolution<sup>1</sup> also contains in its final chapter the ETUC's 20 priorities for the European Union's energy policy for 2020, priorities that are relevant and that deserve the closest attention in the framework of this draft Directive, particularly because they incorporate the objectives of improving energy efficiency and promoting combined heat and power.

### On the proposal for a Directive:

**I**  
**Integrate and recognize the importance of the workplace and social dialogue in the Directive:** Considering the importance of the workplace as a primary site for the development and implementation of the measures proposed, the ETUC regrets the absence of initiatives relating to the workplace and promoting social dialogue in the European level energy efficiency policy and projects and wrote to Commissioners Hedegaard, Oettinger and Andor with these messages in July 2011 letter<sup>2</sup>, requesting a meeting with them to address how the workplace and social dialogue could be better reflected in European Energy efficiency policy.

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1 <http://www.etuc.org/a/7952>

2 <http://www.etuc.org/r/1757>

Worker engagement and participation in energy efficiency programmes is crucial for their success. To ensure implementation, full engagement worker involvement through social dialogue in the formulation of policy and the development of skills and education programmes is of paramount importance, as well as measures ensuring good working conditions and health and security at work.

Therefore, the Directive should integrate the promotion of social dialogue as a necessary tool to achieve the objectives.

The possibility of adopting an annex on training leading to certification or qualification of the service providers covered by this Directive should also be examined. This could be modeled on the annex to Directive 2009/28/EC on the promotion of the use of energy from renewable sources.

## II

**Set binding targets:** According to article 3, paragraph 1, “Member States shall set a national energy efficiency target expressed as an absolute level of primary energy consumption in 2020”. The commission does not, however, propose the setting of binding targets. This is problematic. Only with binding targets will progress be made. This has been shown to be the case with the 20 % renewables target. As the target is binding, member states have made a lot of progress and the EU is on course to achieve it. The energy efficiency target of 20 % needs to be made binding as soon as possible.

## III

**Set a binding renovation rate for private buildings:** According to article 4, paragraph 1, “Member States shall ensure that as from 1 January 2014, 3% of the total floor area owned by their public bodies is renovated each year” Setting such a binding target is more than welcome. The problem is that public buildings constitute only 12 % of the building stock in the EU (according to Energy Efficiency Plan 2011). Any measure targeting such a small proportion of buildings is going to have a limited impact. As it states in preamble 15 of the draft directive, “the rate of building renovation needs to be increased, as the existing building stock represents the single biggest potential sector for energy savings”. In fact over 40% of all

energy is used in the building sector and reducing this energy use is very cost-efficient. Reaching the 20 % target will only be possible if a binding renovation rate for private buildings too is imposed in the directive. Member states could then decide how best to achieve this.

For determining the level of ambition to be adopted in this Directive for private housing, reference should be made to the best practices that exist in several Member States, particularly in Germany, where the Alliance for Employment and the Environment has contributed to positive results.

## IV

**Foster Combined Heat and Power (CHP):** according to article 10 of the directive, every new power plant must be planned on the basis of CHP in order to improve efficiency. Utilities as well as industry are obliged to ensure that heat consumption is used effectively. ETUC welcomes this proposal, as highly efficient CHP plants are able to reduce the CO<sub>2</sub> emissions of total energy production by up to 30%. ETUC regrets that the Commission has chosen not to set EU binding targets for improving the rate of CHP production in the electricity sector nationally, as exist already in some Member States.

## V

**Limit the cost repercussions on final customers:** The obligations and measures provided for or foreseeable under the Directive will inevitably result in costs. Measures should be included in the Directive to help guarantee that the cost repercussions on final customers will be moderate and excluding low-income households from such costs.

## VI

**Provide financing sources to meet the objectives:** According to preamble 33, "Member States and regions should be encouraged to make full use of the Structural Funds and the Cohesion Fund to trigger investments in energy efficiency improvement measures." It is of great importance to use the existing financial instruments to the full, but these are not adequate. Large scale energy efficiency improvements, such as extensive building renovation programs, will require lots of funds, which indebted national governments currently do not possess.

To bridge the gap, the commission has proposed the establishment of EU project bonds to finance infrastructure projects. The scope of these bonds should be extended to energy efficiency projects such as building renovation works. Funding should be provided in this way to both public authorities and energy service companies, which also suffer from lack of funding sources. The energy performance contracting performed by these companies, which the commission seeks to promote via this directive, is not adequately financed by the private sector due to the inherent risks involved. Therefore the use of EU project bonds would be of benefit.

The Commission should also:

- examine as a matter of urgency the reasons for the low take-up of available resources (Structural Funds and EIB, in particular) and review financing rules as need be;
- explore how to increase the role of the Energy Efficiency Fund, in terms of both sources of financing and criteria for the grant of funds, which must ensure the achievement of both environmental and social objectives;
- review other potential financing mechanisms, among which third-party financing systems.

## VII

**Make earlier assessments:** According to article 3, paragraph 2, "By 30 June 2014, the Commission shall assess whether the Union is likely to achieve its target of 20 % primary energy savings by 2020". The assessment needs to take place earlier. Otherwise there will not be enough time to reach the target.

## VIII

**Involve industry more closely:** the cut-off date of 2014 for the first energy audits should be brought forward and all undertakings, large or small, should be obliged to have energy audits performed.

As suggested by the EESC in its draft opinion, there is a need "to examine to what extent and under what conditions the benchmarking instruments for emissions of CO<sub>2</sub> and other polluting gases [BREF documents drawn up by the Seville-based IPTS (Institute For Prospective Technological

*Studies) as background material for the former IPPC Directive and the 2010 Industrial Emissions Directive (IED), also used for the ETS system, and which include energy efficiency references] could become binding and be drawn up in the framework of a system of governance involving all players concerned, among which employers, trade unions and NGOs (such as the ECHA Agency in Helsinki for the European REACH Regulation). In this way, it would be possible to take into account in the analyses and proposals to be drawn up in the framework of this governance system: the costs and benefits of conceivable energy efficiency measures and, among others, the social-employment dimension, the impact on working conditions, social analyses and standards, tools for evaluating estimated employment, qualifications and vocational training needs, and arrangements to be implemented as a result.”*

## **IX**

**Set strict conditions for the use of smart meters:** the conditions to be respected in the event of the installation of smart meters, as proposed in article 8, paragraph 1, are insufficient for the ETUC. The introduction of such meters should not lead to higher costs for consumers and must be made conditional on compliance with the principles of universality and accessibility of energy, as well as respect for personal data, as also stated by the EESC in its draft opinion.

## **X**

**Public services:** the Directive should focus special attention on and highlight the fundamental role that regional and national public services can play in achieving the objectives of the Directive, whether on energy audits, energy performance contracts, aid and incentives for improving the energy efficiency of housing, industry and services, or aid for the installation of combined heat and power facilities.

## **XI**

**Include the transport sector:** the Directive should contain the obligation for Member States to report energy efficiency results obtained sector by sector, including the transport sector, despite the fact that another Directive on transport is being drafted.

**In connection with this Directive, the ETUC also asks the Commission and European Parliament:**

- To contribute to the European coordination required to improve school and university curricula, training programmes and R&D programmes, so as to adapt them to the objectives sought by this Directive and to favour partnerships to this effect.
- To contribute to expanding the remits of works councils and European works councils to include energy efficiency, in order to promote achievement of the objectives of this Directive.

# RIO+20: STRENGTHENING THE SOCIAL DIMENSION OF SUSTAINABLE DEVELOPMENT

Resolution adopted by the Executive Committee on 19-20 October 2011

## I

Twenty years on from the first Earth Summit in 1992, poverty has increased in absolute terms, half of the world's workers work in insecure conditions, unemployment is at record levels, and harmful greenhouse gas (GHG) emissions are continuing to rise together with our unsustainable use of energy and resources, threatening biodiversity and global calamity if action is not taken urgently. This reality makes success at the Rio+20 summit of key importance to revitalise the sustainable development agenda internationally, in the face of the current economic crisis.

## II

The Rio+20 summit will be focused on reviewing progress since 1992 alongside 2 key themes:

- 1/ A green economy in the context of sustainable development and poverty eradication, and
- 2/ the institutional framework for sustainable development. Broad-based civil society involvement is needed to ensure all elements of sustainable development are pursued consistently and fairly. Social consensus is only possible with the full engagement of all civil society actors, including social partners, and the recognition of the specific role of trade unions and their members as both workers and citizens.

## III

The ETUC fully endorses the position taken by the International Trade Union Confederation (ITUC) to focus attention on the strengthening of international institutions and 3 key international demands: the creation

of a universal social protection floor, the financial transaction tax, and a global target of at least 50% increase in 'green and decent' jobs by 2015.

## IV

Meanwhile, Rio+20 must be grasped as an opportunity for the EU to revitalise its own sustainable development strategy through a strengthening of the European social and employment dimension, the promotion of economic and employment security, and recognising the essential importance for social cohesion played by social dialogue and collective bargaining.

## V

This resolution sets out the ETUC's demands in this regard towards the EU and national representatives negotiating agreements in advance of the summit and the December publication of the report to prepare the summit from the High-Level Panel on Global Sustainability (HLPGS), chaired by Finnish President Tarja Halonen.

## VI

At Rio+20, the ETUC calls for:

- The inclusion of 'Just Transition' and 'Decent Work' in any concluding text or agreement, linked to a mandate for the ILO on implementation, and the creation of a universal social protection floor to ensure this Just Transition;
- The adoption of a global target of at least 50% increase in 'green and decent' jobs by 2015. One means of achieving this goal could be a Global Energy Efficiency and Renovation Programme.
- The strengthening of UNEP through its transformation into a new UN environmental organisation, based on multi-stakeholder involvement, and the creation of a high-level Sustainable Development Council reporting directly to the UN General Assembly, on the basis of an international system for measuring progress on sustainable development goals to be agreed at Rio+20, including the adoption of adequate indicators to measure sustainable development;
- The creation of a global financial transactions tax (FTT), and the adoption of the European proposal for a European FTT, to provide a credible and stable financial framework to support sustainable



development policies (notably, global poverty eradication, tackling climate change, and ensuring social justice).

## VII

At European level, the transformation of our economies and the promotion of the greening of all activities and jobs will demand a long-term policy and investment agenda. This policy agenda must go beyond the short-term constraints of stock-market reporting and political election cycles. European political decision-makers must:

- Go beyond the Europe 2020 strategy and promote a stronger agenda for sustainable economic growth in Europe based on sustainable investment programmes and job maintenance and creation, reinforcing the social, environmental and economic dimensions equally;
- Adopt a European Just Transition Roadmap, including the promotion of social dialogue and worker rights and participation on sustainable development, EU targets on quality job creation and transformation, and initiatives on the anticipation of change (e.g. through substantial training initiatives and information and consultation procedures);
- Mainstream sustainable development inside the EU and its Members states by implementing the horizontal clauses foreseen in the Lisbon Treaty on gender equality, social protection and environment (articles 8, 9 and 11 from the Treaty on the Functioning of the European Union), involving Ministries responsible for Employment and Social Affairs and Industry, as well as the social partners through the promotion of social dialogue on sustainable development;
- Recognise the importance of public authorities, regulations and public budgets for the delivery of sustainable development policies, particularly in guaranteeing universal access to water and universal services, as well as strengthening the role and use of social and environmental criteria in the revision of European public procurement rules;
- Press forward financial market re-regulation and supervision, abolish tax havens, tackle tax evasion and review investment treaties to ensure sustainable public finances; in order to change the allocation of investment risk internalising the external environmental and social costs and promote sustainable investments in energy and transport infrastructure modernisation and decarbonisation. This implies a

calculation of the value of CO<sub>2</sub> to ensure the reduction of GHG emissions by a factor of 4 by 2050 (on 1990 levels);

- Press for increased EU ambition on energy and resource use, through binding energy efficiency and energy saving targets of at least -20% by 2020, the promotion of greater resource efficiency and responsible waste management;
- Reorientate the EU general budget, as well as reinforcement of the Structural and Regional Funds, while ensuring ex-ante and ex-post evaluations of loans from the EIB and EBRD, conducted in line with social and environmental criteria;
- Create European and national Ombudsmen for future generations, tripartite Sustainable Development Councils, and/or parliamentary or independent Commissions for Future Generations.

The UN's decision to adopt the major theme of 'A green economy in the context of sustainable development and poverty eradication', should not be seen as a "business opportunity" for the richest countries and companies. Rather, the theme should be tackled to address the challenges of ensuring public and private investment flows to the South, as well as ensuring the investment and policy needed to achieve sustainable development in the North.

In the poorest countries, there is a massive challenge of capacity building across civil society, requiring investments in the public realms of health, education and welfare, at the same time as low carbon "green economic growth" programmes are being developed. In this sense, the "green economy" is only part of the wider challenge that Rio has to address. A "Just Transition" to the green economy is about recognising and planning fairly and sustainably for the significant challenges that sustainable development, climate change and fairer resource management policies pose for the whole of society.

## **Annex 1: Background and explanatory notes**

In 1992, the Rio Earth Summit brought the concept of 'sustainable development' formally into the United Nations (UN) remit: bringing environmental and social concerns into mainstream debates on economic and human development within the Commission on Sustainable Development (CSD). In Johannesburg, ten years later, negotiating parties focused on promoting rules on social and environmental sustainability, to "strengthen and better integrate the three dimensions of sustainable development policies...In particular, the social dimension of sustainable development should be strengthened" (article 140c). Rio+20 in 2012 will focus on reviewing progress and defining the way forward on Green Economy and Poverty Eradication, and the institutional framework on sustainable development.

The ETUC believes that Rio+20 must be grasped as an opportunity for the EU to revitalise its own sustainable development strategy through a strengthening of the European social and employment dimension, the promotion of economic and employment security, and recognising the essential importance for social cohesion played by social dialogue and collective bargaining. The European Union and European countries should have a key role in pursuing these demands. A single-minded focus on competitiveness and deregulation threatens to undermine sustainable development in Europe, contributing to a rise in precarious work and failing to address rising poverty levels, GHG emissions and resource depletion. A lack of political leadership in the current crisis has intensified the pressure on working, retired and unemployed men and women in Europe, threatening to further erode our societies.

### **1. Ensuring the social dimension becomes a strong pillar of 'sustainability'**

The ETUC believes that it is imperative that governments (and the European Union) take the opportunity of the Rio+20 Earth Summit (May 2012) to revitalise and strengthen the international framework on sustainable development. The race for a 'Green Economy' should not become a substitute to sustainable development and its social aspect must not be left behind nor neglected. The Millennium Development Goals should not be

ignored in the process, and any Sustainable Development Goals should prioritise the fight to eradicate poverty globally, whilst ensuring environmental protection.

Sustainability must address all three broad areas or dimensions: environmental, social, and economic. These needs interrelate in complex ways. The interfaces (social-economic, social-environmental, and environmental-economic) are blurred and indistinct. By ignoring one element of the three, any policy approach is destined to fail to address the underlying challenges of our model of production and consumption. It is therefore essential that the inclusion of Just Transition and Decent Work in the Cancun agreement be reflected in the work and negotiating texts of Rio+20. It is only through including policies and action to tackle inequalities, and promote safe, decent and sustainable green jobs that trade unions will remain engaged in the process and sustainable development will be achieved.

A “Just Transition” to the green economy is about recognising and planning fairly and sustainably for the huge changes that climate change policies will have for the whole economy. The five Just Transition principles for managing process of change to a sustainable future are based on the principles of fairness and equity:

<b>Consultation</b>	Consultation between representatives from trade unions, business, government, regional bodies and voluntary organisations, on the shift to a green, low carbon economy, from the workplace to national government
<b>Green and Decent Jobs</b>	Investing in the technologies and infrastructure to meet the sustainability challenges for a low carbon, resource- efficient future while creating quality jobs.
<b>Green Skills</b>	Government-led investments in education/training and skills programmes, from the workplace to national levels, to equip students and the workforce with the skills for a low carbon, resource-efficient economy. Promoting individual worker rights to training to ensure access for all workers.
<b>Respect for labour &amp; human rights</b>	Democratic decision-making and respect for human and labour rights are essential in order to ensure the fair representation of workers' and communities' interests. Strengthening worker information, consultation and participation rights to matters concerning sustainable development.
<b>Social protection</b>	Strong and efficient social protection systems in the transition to a low carbon economy.

Putting the Decent Work Agenda into practice is achieved through the implementation of the ILO's four strategic objectives, with gender equality as a crosscutting objective:

- Creating Jobs – an economy that generates opportunities for investment, entrepreneurship, skills development,
- Guaranteeing rights at work – to obtain recognition and respect for the rights of workers.
- Extending social protection – to promote both inclusion and productivity by ensuring that women and men enjoy safe, secure employment, with unemployment protection and adequate healthcare.
- Promoting social dialogue – Involving strong and independent workers' and employers' organisations

The ETUC takes up the ITUC's call for strong employment policies promoting the greening of all sectors and jobs, with ambitious targets on quality job creation and transformation.

Consequently, the policy dialogue in advance of, during and following, the Rio+20 summit cannot be left to Environmental Ministries alone, but should involve Ministries responsible for Employment and Social Affairs and Industry, as well as the social partners through the promotion of social dialogue on sustainable development. It is within their remit to define the 'strengthened social dimension' already demanded in Johannesburg in 2002.

With 23 million unemployed in Europe, austerity measures will not build a greener, fairer Europe. They will not deliver the jobs and skills, nor the fair and just transition to a sustainable economic future vital for us all. The concept of Just Transition is fundamental to ensuring the policy framework for quality job creation, included already in the UNFCCC Cancun agreement, this concept and Decent Work must be integrated into the Rio+20 final agreements. However, the EU has already accepted this commitment in Cancun and therefore the ETUC joins the ITUC call for a specific mandate for the ILO to implement Just Transition at international level, and calls for a proposal on a European Just Transition Roadmap, accompanying the EU's Roadmap 2050 to set the social framework of climate change mitigation and adaptation.

Within the context of the Rio+20 dialogue, the promotion of a universal social protection floor is of paramount importance to ensure this Just Transition to a energy- and resource-efficient economy alleviates poverty and unemployment globally. At European level, attempts to dismantle social protection systems and rights, and welfare states in general, under the guise of the sovereign debt crisis, threaten to exacerbate socio-economic inequalities, increasing poverty and the number of working poor, undermining the fabric of European society and social cohesion. It is a strengthening not a weakening of social protection rights (e.g. unemployment, pension provisions, healthcare) which is needed.

## **2. Providing a transparent and accountable framework for action at all levels**

The ETUC calls for the strengthening of UNEP through its transformation into a new UN environmental organisation, which should be supported through an independent scientific assessment panel on sustainable development (mirroring the IPCC). Moreover, in addition to increase the political engagement in sustainable development, a top-level Sustainable Development Council reporting directly to the UN General Assembly should be foreseen, strengthening the work of and formal interactions between the ILO, UNEP and UNDP on sustainable development and green, decent jobs. A future UN Charter on Human Responsibilities and Solidarity could provide a legal foundation for UN action on sustainable development.

To this end, the ETUC supports calls for the establishment of an international system for measuring progress on sustainable development goals at Rio+20, establishing machinery for monitoring and guiding investment flows around the world to support sustainable development objectives (and to discourage unsustainable investment), including in particular how richer countries can assist the less developed in the sustainable transition.

Specific sectoral roadmaps are necessary with specific sustainable development goals and targets, particularly to address: sustainable mobility and urbanisation; tackling deforestation, the promotion of closed-loop manufacturing and better resource efficiency; the substitution of harmful substances; and the problems of water, food, energy and resource security.

The ETUC is convinced that it is urgent to adopt adequate indicators capable to measure sustainable development, ecological footprint and social inequalities. Growth as a concept should be reviewed in line with the work of Sen-Stiglitz.

A key priority at Rio+20 must be engagement with social movements and citizens on sustainable development. The tripartite model of the ILO should be reflected in the changing institutional framework, allowing a more bottom-up approach with active stakeholder engagement and responsibilities.

Broad-based societal pacts will be needed to ensure all elements of sustainable development are pursued consistently and fairly. Such pacts are only possible with the full engagement of social partners and recognition of the specific role of trade unions and their members as both workers and consumers.

Engaging at the workplace is of central importance in changing production and consumption behaviour. This is best achieved, as demonstrated by recent interprofessional social partner initiatives, through bilateral or trilateral social dialogue<sup>1</sup>. However, there is still a long way to go if the Agenda 21 objectives are to be achieved, as unions are often not consulted within businesses or at sectoral level. A global evaluation would thus need to be drawn up of the level of implementation of Agenda 21, at environmental level and equally in the world of labour, specifically in terms of gender equality, training and poverty eradication, in order to design the measures more effectively bring on board the stakeholders who can help to achieve the objectives.

Furthermore, democratic structures should be strengthened to mainstream sustainable development in national and European policy-making. The EU and its Member States should start to mainstream sustainable development by implementing the horizontal clauses foreseen in the Lisbon Treaty on gender equality, social protection and environment (articles 8, 9 and 11 from the Treaty on the Functioning of the European Union). Other examples of how this could be achieved include national and European

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1 <http://www.etuc.org/a/8865>

parliamentary committees 'for future generations' which consider the economic, environmental and social consequences of policies pursued. Alternatively, a European and national Ombudsman for future generations should be considered, or national Sustainable Development Councils. Finland already has a Parliamentary 'Committee for the Future'. Hungary has had an Ombudsman for future generations until recently. A number of EU countries have active multi-stakeholder Sustainable Development Councils. Such action is not just the prerogative of the developed world, but should become a model for all.

### **3. Investment in people and planet: Developing the European sustainable development strategy**

Transformation of our economies and the promotion of the greening of all activities and jobs will demand a long-term policy and investment agenda. This policy agenda must go beyond the short-term constraints of stock-market reporting and political election cycles.

In the context of the current macroeconomic situation and spirally public bond-market crisis, this agenda is currently totally elusive and undermined continuously by national austerity programmes and market speculation.

The ETUC has made its position on European economic governance and macroeconomic policy clear in other positions promoting an alternative agenda for sustainable growth in Europe and job maintenance and creation<sup>2</sup>. The ETUC is convinced that EU must go beyond the Europe 2020 strategy to give Europe a real sustainable development policy based on equal social, environmental and economic pillars.

To spur sustainable growth, more ambition is needed from Europe in terms of climate and energy goals. The ETUC calls for increased ambition on greenhouse gas emission reductions of -25 to -40% by 2020 in-line with the IPCC recommendations, together with binding energy efficiency and energy saving targets of at least 20% by 2020. While ensuring that

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2 ETUC Strategy and Action Plan 2011-2015: <http://www.etuc.org/a/8928>



increased targets are accompanied by measures to promote social progress, to tackle energy poverty and carbon leakage and promote continual improvement in environmental performance and greater resource efficiency. It is essential in this context to ensure the global competitiveness of Europe's energy intensive industries by adequate measures, if necessary. Jobs and production processes in Europe must be made more sustainable in these industries. However, it should be avoided that jobs are lost to countries with considerably lower environmental standards and legislation.

Government intervention is needed to achieve these goals as well as a portfolio of more efficient public and private instruments. Public authorities, regulations and public budgets are crucial for the delivery of sustainable industrial policies aimed at addressing value-chains for strategic industries, support for R&D, support for the demonstration and deployment of technologies, standard setting, regulation, public investment in infrastructure modernisation, the diffusion of technologies to the South, and strong employment policies and education, training and life-long learning frameworks promoting green, decent jobs. The EU should build European policy agendas based on joint technology platforms and cooperative R&D initiatives, to press for a level playing field at international level and further the transition towards greater energy- and resource-efficiency ensuring social cohesion and economic and environmental justice.

To ensure sustainable public finances, the promotion of development and a fairer distribution of wealth, tax evasion must be addressed through the abolition of tax havens, financial market regulation and reform, and a review of business and investment agreements. Moreover, the better use of energy taxation should allow an increased taxation shift from labour taxes to environmental taxation, respecting and ensuring the financing of social protection systems.

Public services play an important role both in mitigation and in adaptation policies for climate change. Austerity policies put this under pressure having long term consequences for example when budgets and staff for environmental protection agencies are cut, investments in water management are not made and health care and emergency services are

not equipped to deal with disasters. ETUC urges the EU to underline the importance of public services and investment therein to ensure societies move on a path to sustainable development.

While existing European financial instruments can be used to better lever private capital to finance sustainable development policies and projects, they are currently insufficient.

A reorientation of the EU general budget is needed. Existing financial instruments must be reinforced and further mobilised to the benefit of a European Union sustainable development strategy. The ETUC has taken a clear position on how this should be achieved in its Resolution on the EU's Multi-Annual Financial Framework post-2013<sup>3</sup>.

The European Investment Bank is an important budget instrument not tied to the EU general budget, and adopted in 2009 a "Statement of Environmental and Social Principles and Standards", including the ILO core labour standards, now included in its strategy for project selection and implementation. This bank should be used more to finance European climate policies, to support R&D efforts not only in large firms but also in small enterprises, and should develop further the implementation of its sustainable development strategy through dialogue with the trade unions and civil society, and through a representation of social partners on the board of this bank. The European Bank for Reconstruction and Development also offers interesting prospects. Ex-ante and ex-post evaluations of loans from the EIB and EBRD should be conducted in line with social and environmental criteria.

Fundamentally, new innovative financing measures are needed. In particular, a financial transactions tax at European and ideally global level is needed, especially to provide a credible and stabilizing financial framework as such but it should also have effects on sustainable development policies (notably, global poverty eradication, tackling climate change, and ensuring social justice).

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<sup>3</sup> Resolution March 2011 : <http://www.etuc.org/a/8503>

Financial market rules should change the allocation of risk to internalise the external environmental and social costs, promoting investments tailored to support sustainability through sustainable investment in infrastructure and strong industrial policies and job-rich strategies. It is only in this way that the social dimension will be strengthened and disproportionate costs will not fall on the most vulnerable in society (in Europe and globally).

## **Annex 2: Policy Options and Practical Actions on chemicals, transport, mining, waste management and the 10-year framework on Sustainable Consumption and Production (SCP/10YFP)**

In its preparation, during and following the Rio+20 summit, the ETUC calls for strong EU endorsement and implementation of the following specific sectoral principles/commitments:

### **1. Chemicals**

The ETUC reiterates the central principles of the REACH regulations to ensure a high level of protection of human health and of the environment, to shift the burden of proof for identifying and controlling risks from authorities to companies and to speed up the placing of safe and innovative chemicals on the market. ETUC therefore considers that the replacement of substances of very high concern and worker health and safety are priorities. The structures of the European Chemicals Agency (ECHA) is seen as a best practice model, in which trade unions and other stakeholders are able to engage with the regulatory authorities to further workers' health and safety, and push for improved innovation towards the substitution of hazardous chemicals.

- Ensure all workers are protected from chemical-related fatalities, injuries and diseases. Ensure decent working conditions in the chemicals' sector as well as in those where chemicals are used. Improve workers' training and awareness on chemical risks.
- Ensure the prevention of chemical risks in workplaces and the environment.
- Ratify and implement ILO Conventions 155 on Occupational Safety and Health and 170 on Chemicals and work towards the application of the UN Global Harmonised System.
- Develop and implement a strong international regulatory framework regarding chemical hazards and national regulatory policies based on the precautionary principle and robust safety evidence. Work towards a binding agreement based on an integrated approach to chemicals, including through the strengthening of UN SAICM. Ensure

no exposure of substances of very high concern to humans and the environment, including CMR, synthetic endocrine disrupters, PBT/vPvB, and other highly toxic substances; and to reach a substitution of these substances in one generation.

- Intensify work to ensure compliance with EU and international rules (e.g. Basel Convention) on chemical products and their treatment as waste through safe and effective recycling, combating irresponsible and illegal shipments of waste to other regions of the world.
- Recognise the need for 'Just Transition' strategies to address economic change in the chemicals industry, resulting from environmental standards.
- Increase research and disseminate information on chemical hazards and on the impacts of unsustainable waste management on public health, occupational health and the environment.
- Encourage substitution of toxic substances through regulatory actions.
- Prevent social and environmental dumping and illegal trafficking and implement the Extended Producer Responsibility and Accountability principles.
- Develop global guidelines on the use of nanomaterials including the protection of workers, consumers, and the environment at all stages of the life cycle, based on the 'no data, no market' principle.
- Increase availability of financial and technical resources for developing and transition countries to enable full implementation of multi-lateral chemicals agreements.

## 2. Transport

Mobility and transport need to be considered as a coherent system, organized to meet specific needs. Urban and rural areas have different mobility requirements. This implies that costs for mobility must not become prohibitive due to energy prices. Both individual and collective transportation systems need to be reconsidered taking into account this aspect. Ambitious measures in the transport sector must be included in EU legislation through a directive on sustainable mobility.

- Ensure public transport systems are adequate, efficient and affordable, and help workers reaching their jobs, education and markets.

- Focus on infrastructure development in rural areas as it is vital for lifting poor people out of poverty. The lack of transport services is deeply related to exclusion, inequality and poverty.
- Implement policies which promote Decent Work in the transport sector.
- Promote ambitious public investments in sustainable infrastructure. Public transportation systems are a centrepiece of sustainable mobility strategies, which need to be promoted.
- Implement policies which enhance modal shift.
- Create fiscal frameworks that allow the internalization of transport social and environmental costs.
- Promote and improve urban and peri-urban planning.
- Reinforce institutional and high-level participation of trade unions and other stakeholders in transport policies.
- A new levy on heavy tonnage maritime shipments and kerosene used in civil aviation provide an opportunity for funding the aforementioned projects.

### **3. Mining**

- Ensure the ratification and implementation of norms on Occupational Health and Safety in mining, including ILO Convention 176 on Safety in Mining.
- Reduce the negative social and environmental impacts of mining operations and compensate workers and communities for unsustainable mining practices.
- Recognise the role of trade unions in the mining sector for achieving decent working conditions in this sector.
- Recognize the need for 'Just transition' strategies to address economic change in the mining industry, resulting from environmental standards.
- Develop upstream and downstream mining activities as a means for diversifying local economies, through a mix of regulatory and voluntary instruments.
- Ensure that the revenue from mining activities is fairly distributed in communities and benefits local and national sustainable development.

- Establish an international regulatory framework for extractive companies.
- Improve the precarious situation of all mineworkers, including small scale mining workers.
- Impose appropriate terms and conditions on mining, including environmental, health & safety, and social protection criteria, and prevent the development of projects that would adversely affect areas of ecological, economic and cultural significance and other land uses.

#### **4. Waste Management**

- Ensure reliable and accessible information on the generation and management of hazardous and non-hazardous waste.
- The creation of an “organism, committee or agency” at the European level with union, social and environmental participation, responsible for monitoring the objectives of the Directive 2008/98/EC on waste (Waste Framework Directive) to ensure its implementation.
- Prevent the generation of waste at the beginning in product design and manufacturing in order to reduce the quantity and toxicity of waste, making products easily recyclable through ‘cradle-to-cradle’ approaches (Ecodesign).
- Promote a green tax reform to change the economic framework to promote waste management options of reducing, reusing and recycling instead the end of pipe options (landfill, incineration). For instance, putting levies on incineration or eliminating the subsidies received.
- Increase research and disseminate information on the impacts of unsustainable waste management on public health and the environment.
- Improve job quality and ensure decent working conditions in this sector. Recognise that workers carry out dangerous, unskilled and low paid work.
- Fight corruption and illegal transportation in the waste sector.
- Enforce a 3 Rs strategy: reduce, reuse, recycle and set binding targets.
- Recognize that dealing with waste is a public responsibility and strengthen the capacity of public authorities and public services to enforce the 3Rs strategy.

- Treat waste as close to the source as possible.
- Implement tracking, monitoring, sanction and compensation systems to better address illegal trafficking of hazardous waste.
- Introduce extended producer responsibility and accountability.
- Prevent social and environmental dumping and illegal trafficking and implement the Extended Producer Responsibility and Accountability principles.
- Focus on political commitment and institutional coherence, indispensable aspects, completing technology development.
- Build capacities for consultation, listening, information exchange and workers participation in decision making processes.
- Acknowledge the potential of the sector to achieve a resource efficient society for sustainable development.

#### **5. 10-year framework on Sustainable Consumption and Production (SCP/10YFP)**

- Ensure changes in SCP patterns reduce the damaging effects of unsustainable production on workers, the environment and communities and include the Just transition strategy to deal with potential challenges in the process of transforming our societies.
- Ensure governments rely more on public regulation and less on voluntary initiatives.
- Reform the shareholder value model of corporate governance and promote a stakeholder's value model.
- Reform investment policies. Currently, they are driven by a search for lower social and environmental standards.
- Address the entire production cycle and sustainability along the whole supply chain.
- Create a level playing field for consumers for them to make their choices only between sustainable products.
- Integrate the needs of small and medium enterprises and their workers when implementing SCP policies.
- Enhance the potential of SCP for the creation of green and decent jobs in sustainable sectors.



- Promote a different organization of global production, based on a fair share of the supply of natural resources, not on the demand of the affluent consumers.
- Adopt an integrated approach to advancing SCP across government departments, avoiding fragmented actions resulting from a lack of coherence in policy instruments.
- Promote sustainable public procurement practices.
- Implement meaningful participation of trade unions and civil society on government committees and projects concerning health and safety.

## **6. Protect biodiversity**

- Alongside the threat of climate change, the loss of biodiversity poses a significant threat to humanity. Therefore active policies are necessary, the first of which must be the progressive removal of harmful subsidies. The second step should be to give a clear value to biodiversity, to encourage research in the area, including in biodiversity basins. Democratic processes should be used through public debate on the importance of different biodiversity priorities, such as landscapes, or endangered fauna and flora. This should be seen in the context of the Nagoya Protocol (adopted in 2010).

## **7. Deforestation and the use of wood**

- REDD+ and other innovative ways to tackle deforestation in the third world are needed. In these the loss of employment of forestry and forest industry workers needs to be taken into account. For example, REDD+ finance should be channelled into easing the labour market transitions from unsustainable (illegal) forestry into something more sustainable.
- To tackle deforestation what is most of all needed is the promotion of sustainable forest management, which ensures that forestry and forest industry will continue to employ workers, and forest-based communities' rights are taken into account, while the environment is also looked after.

- The calculation method of LULUCF emissions needs to be such that it promotes the use of wood products from sustainable sources, as this contributes to tackling climate change and to the creation of green jobs in forestry and forest industries. Using sustainably harvested wood products in long-term applications such as buildings has been proposed by the IPCC among others to be an effective way to tackle climate change, mainly due to carbon being stored in these products for the duration of their lifespan.

**DECEMBER 2011**

Brussels, 7 December 2011

## **Urgent Message of the European Trade Union Confederation Executive Committee to the European Council**

The European Trade Union Confederation Executive Committee wishes to send you a strong and urgent message in the context of the European Council discussion of changes in the Lisbon Treaty.

It is the future of citizens, and not the opinion of rating agencies, to which your concerns must be directed. Your common political leadership is essential to prevent a collapse of our economies, recession, mass unemployment and social unrest. Don't stifle growth and jobs. Don't imprison EU countries in an economic straitjacket. This is not the right solution towards returning to sound budgets.

Treaty change must follow a fully democratic process. In no event can it be disguised into a technical exercise. The European Trade Union Confederation demands to be fully involved in the process leading to any Treaty changes. There can be no quick fix to the Treaty that will not lead to further disillusion among our citizens towards our political institutions. Immediate solutions can and must be found to meet the existential threat the European Union faces.

The European Union project will unite Europeans if it has the objectives and the means to be a tool for social progress. This includes respect and promotion of fundamental social rights, including trade union rights and the autonomy of negotiation. Social Europe must be developed hand in hand with economic integration. The European Trade Union Confederation demands the inclusion of a social progress protocol in any revised Treaty.

We invite the Prime Minister of the next Presidency to meet all European Trade Union leaders early January on European Trade Union Confederation concerns and proposals.

# ETUC RESOLUTION ON A RENEWED EU STRATEGY 2011-14 FOR CORPORATE SOCIAL RESPONSIBILITY (CSR)

Adopted by the Executive Committee  
on 7-8 December 2011

## Introduction

### I

The Commission's Green Paper on CSR in July 2001 - followed by the implementation of a Multi Stakeholder Forum (MSF) - raised the trade union movement's expectations of CSR in a number of respects. However, the way in which the discussions (which ended on 29 June 2004) unfolded in this MSF and the gradual transfer of this issue from the Directorate-General for Employment to the Directorate-General for Enterprise prompted the ETUC to adopt a resolution that strongly criticised the whole enterprise (Executive Committee meeting of 9 and 10 June 2004).

### II

The failings of the Communication from the Commission of 22 March 2006, the definition of CSR given there<sup>1</sup> and the establishment of a 'European Alliance for Corporate Social Responsibility' open only to businesses, but effectively responsible for implementing various aspects of the Communication, ultimately caused NGOs and the ETUC to withdraw from the Community process to invest elsewhere.

### III

A new Communication was announced in 2010. The new text [COM(2011) 681] from 25 October 2011, which conceded that "important challenges remain" despite the progress made, contains significant improvements

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1 Definition: "a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis".

vis-à-vis the Communication from 2006. It set out commendable intentions, but still insufficient concrete actions.

## **Real progress made in “A renewed EU strategy 2011-14 for Corporate Social Responsibility”**

### **IV**

The new definition of CSR (item 3.1) refers to “the responsibility of enterprises for their impacts on society”, which also appears in the United Nations’ Guiding Principles on Business and Human Rights. Besides, it is rightly indicated that “[r]espect for applicable legislation, and for collective agreements between social partners, is a prerequisite for meeting that responsibility”.

### **V**

Emphasis is placed (item 3.2) on internationally recognised principles and guidelines (the recently updated OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, etc.) as well as specifically lobbying European companies and the Member States about them (items 4.8.1 and 4.8.2).

### **VI**

The Commission also acknowledges (item 3.6) that “CSR contributes to and supplements social dialogue”. The EU will actively support international agreements but is limiting itself to launching a database.

### **VII**

The agenda for action 2011-2014 (item 4), which officially comprises 18 initiatives, provides additional possibilities for reinforcing the obligations of multinational enterprises to comply with labour standards. Priority is given to sectoral strategies and responsible practices throughout the supply chain. However, a clearer explanation in the CSR definition of companies’ ‘direct and indirect’ responsibilities, including outsourcing, would have been welcome.

### **VIII**

As announced in the Single Market Act, the Commission will also submit “a legislative proposal on the transparency of the social and environmen-

tal information provided by companies in all sectors" (item 4.5), probably around the middle of 2012.

**However, the progress made is a long way from being sufficient!**

## **IX**

Against the backdrop of the financial, economic and social crisis, the dominance of neo-liberal policies and heightened competition, there is nevertheless justification for fearing that more European companies will consider CSR to be a 'luxury' and will show much less respect for human rights, labour standards and environmental concerns. It is apparent that concrete/binding measures are needed in several areas.

## **X**

The Commission effectively (item 3.2) gives equal importance to the OECD Guidelines, the ILO Tripartite Declaration of Principles, and for instance the Global Compact principles, although everybody knows that these principles are more a declaration of intent than a genuine, credible attempt to promote CSR. Accordingly, the hierarchy of these sets of principles needs to be reviewed.

## **XI**

In addition, the Commission intends (item 4.1) to create sectoral platforms and launch a European award scheme for CSR partnerships, without specifying how it plans to implement these plans. It should be remembered that the trade union movement was not consulted a few years ago when a similar initiative was taken to reward the most socially responsible European companies. Furthermore, while one of the multinational winners had implemented some interesting projects, it was well known that they were flouting trade union rights.

## **XII**

While we are glad that the Commission (item 4.2) is addressing the issue of unfair commercial practices related to the environmental impact of products, we note with regret that the report on the application of the Unfair Commercial Practices Directive foreseen for 2012 does not make any mention of social issues.

### **XIII**

Similarly, there is clearly a discrepancy between environmental and social concerns in the chapter entitled "Public procurement". Whilst the 'Buying green' handbook on environmental public procurement was adopted in 2005, it took five years before the Commission published its equivalent in the social domain. Particular vigilance will therefore be needed (item 4.4.2) to ensure better integration of both social and environmental considerations into public procurement as part of the 2011 review of the two Public Procurement Directives.

### **XIV**

The ETUC will also ensure (item 4.8) that the European agreements concluded with other countries and regions around the world explicitly state that the "parties concerned will endeavour to ensure that companies operating in or from their territory are responsible for identifying, anticipating and alleviating any actual or potential impacts" they might have.

### **XV**

The Communication does not refer to any possible changes in the composition of the Business Alliance. While throughout the CSR process everybody has admitted the need to adopt a balanced, multilateral approach that considers the opinion of all stakeholders throughout the CSR process, in reality the Alliance and CSR Europe have a stranglehold on the process in Europe.

## **Conclusions**

### **XVI**

The ETUC endorses the new Communication from the Commission on CSR, particularly the new definition of corporate social responsibility as well as a precise agenda for action for 2011-2014.

### **XVII**

Yet in the context of the crisis and heightened competition, European companies may pay less attention to social and environmental standards, particularly when operating outside the EU. CSR cannot be just the proverbial good tree that hides a forest of bad practices. It is not enough to "invite" companies to act responsibly; more concrete/binding meas-



ures are needed. The desire expressed in 2006 to “make Europe a pole of excellence on CSR” has been relinquished.

## **XVIII**

The ETUC will take the opportunities afforded by the agenda for action 2011-2014 to make improvements to that agenda on the basis of our trade union priorities. The Secretariat will coordinate these actions with the members by setting up an ad-hoc working group in 2012, which will also be responsible for reporting on changes in positions and the recent experiences of members in terms of CSR.

## **IX**

Finally, the ETUC will endeavour to promote unionisation and compliance with trade union rights everywhere and will urge companies to adopt an open and proactive attitude to the trade union movement. In the words of J. Ruggie (UN Special Representative, November 2009, Stockholm): “The presence of trade unions is the most effective monitoring system and mechanism for addressing grievances”.

# ETUC DECLARATION ON “EY2012: EUROPEAN YEAR OF ACTIVE AGEING AND INTERGENERATIONAL SOLIDARITY”

Adopted by the Executive Committee  
on 7-8 December 2011

On 6 December 2010, EPSCO adopted the proposal to declare 2012 the « European Year of Active Ageing and Intergenerational Solidarity ». The ETUC and its affiliates subscribe to this initiative and plan to play a full part in it – as it did in 2010 for the European Year Against Poverty and Exclusion...

Reconciling the different needs of younger and older people, and aligning them with those of society overall is a considerable challenge for policy makers and the trade union movement in particular.

The ETUC together with its pensioners’ organisation FERPA sees the problems raised by the pace of demographic development as an opportunity for the younger and older generations to get to know each other better and to meet in a different manner based on mutual respect.

**Active ageing and intergenerational solidarity: for the ETUC these are multifaceted concepts which are not incompatible**

All too often these terms are perceived or presented in a reductive way.

When we think of «active ageing» we think primarily of the place and role of older people in society, their living conditions and the way to “grow old well” or even of their continuation in the “labour market”.

And so when the idea of « intergenerational solidarity » is evoked, we think often and firstly of social transfers between generations and especially, in the framework of financing of contribution-based pensions – or “Social Security” pensions – the financing of old-age pensions by those still active in the job market and particularly by young people...

These kinds of approach are certainly important; but for the ETUC they alone would not cover the complexity of the approach.

### **A priority: act at a high level on employment of older and younger workers**

Allowing workers to both

- remain in a quality job until the «legal» minimum age of retirement rights (which must take into account hardship and length of career)
- and to grow old in good conditions

demands first of all action at a high level, i.e. primarily on employment policies applied in Member states and inside companies.

It is not enough simply to « decree » that one must work longer in order to make it a reality. It is still necessary that on the one hand the jobs exist, and on the other that the employers have the wish and the will to either keep their older workers, or to hire some.

- The ETUC reiterates its conviction that : a pertinent response cannot be reduced to simply proposing to raise the legal pension age. ETUC rejects firmly any recommendation aimed at introducing an automatic mechanism to raise the legal pension age or any other uniform solution that would apply to all Member States. (october 2010 resolution)
- What is the situation today?
- There is a general degradation of employment everywhere, provoked by the crisis and the consequences of budgetary austerity plans, by an increased precarity of employment, a reduction in social services, leading to a slowdown in demand and domestic consumption, also

by delocalization of jobs, in the name of a greater search for company profits, by profiting from and thereby encouraging social and/or fiscal dumping between the different countries.

This degradation of employment, the increase in precarity and growing inequality affect not only older workers – even if they are the first to be hit – but also young workers.

Thus, as recalled by Eurostat statistics (Eurostat press release 96/2011):

- If more than half the population between the ages of 55 and 64 is no longer active on the job market (exactly: 46.3% are still active)
- Only 35% of the population between the ages of 15 and 24 are active on the job market. And when they are employed it is usually in precarious jobs, if not work experience, paid or unpaid.

At the same time, the willingness of employers to keep their older workers, including taking the necessary measures to keep and/or to hire them, is very limited.

A study carried out by the University of Utrecht in the Netherlands proves particularly instructive. Thus we can see that

- Only 20 to 40% of employers are ready to encourage their workers to work until the legal retirement age;
- Less than 20% of them are ready to recruit older workers;
- Only 30% of them would be ready to introduce flexible working time for older workers;
- Only 25% would be ready to adopt ergonomic measures to suit them;
- 20% would be ready to put in place adapted training or to develop partial retirement measures and/or reduced working time before retirement;
- And even fewer are willing to envisage pre-retirement measures (15%) or exceptional leave (12%) or to reduce both working time and salary (7%)

## **Conditions of active ageing: quality of work, quality of life**

Keeping older workers in the company, but also “active ageing”, are also a result primarily

- of the development and application of lifelong learning, allowing workers to adapt to new activities, new technologies, to the point of enabling them to change jobs;
- of the improvement of working and health and safety conditions in the workplace;
- of taking into account difficulty and/or working lifespan with the possibility of early retirement...

«Active ageing» therefore means primarily improvement of living conditions. But it is also means mobilizing and perpetual action in favour of working conditions and decent salaries.

Active ageing also means guaranteeing retired persons and particularly women – who, in the course of their working life have earned on average 15% to 20% less than men and make up the largest proportion of “poor pensioners” – a decent pension, i.e. one that allows them to live with dignity, to have access to goods and services – including healthcare – and to take their place in society and not live “on benefits”.

## **To develop intergenerational solidarity: act equally with and for young people**

Building a unified society means building a society where everyone has their place, in which no-one feels excluded, whatever his or her situation: for example, the elderly, the handicapped, ethnic minorities or... young people!

The ETUC and its affiliate did not wait for the launch of 2012 to unite their efforts in order to care about the situation of young people entering the labour market and to alert policy makers and employers equally to the problem.

Thus, for example, as far back as 1999, FERPA developed a project entitled: «Solidarities between older and younger people», in which it concerned

itself as much with the early exclusion of older workers from the labour market as with the insecuritisation of young people on the same labour market.

Equally, in April 2007, the ETUC organised for its members, with the support of the European Commission, two decentralized seminars in Warsaw and Paris on the theme "Demography and the labour market: a challenge for trade unions". The objective of these seminars was to create the conditions for the young and the not-so-young to find their place and thereby contribute to the economic and social development of our societies, as well as to their own insertion and social well-being. This, in a perspective of intergenerational solidarity.

Intergenerational solidarity must be the base for the development of each action. In this respect, the trade union movement has always represented the "ideal" arena to pursue the goals of solidarity by and between the different generations.

It is within this spirit of struggle against all forms of discrimination, particularly related to age, that in the framework of the social dialogue, the social partners concluded on 25 March a European Framework Agreement "For an inclusive labour market".

If progress has been made, particularly thanks to mobilization in this area of workers' organizations affiliated to the ETUC, it must be acknowledged that there is still a lot to be done, particularly to allow younger workers to enter the labour market as well as allowing older workers who wish to remain in it.

Acting with and for young people today means, for example:

- Fighting against precariousness;
- Avoiding early departure from the education system without qualifications;
- Allowing them to do jobs which are in line with their training, implying that this training should take into account, including in the medium term, the needs of the labour market...

- But it also means continuing to fight to defend quality Social Security retirement systems based on a unified and perennial financing, in a way that guarantees quality pensions for generations to come.

## **The commitment of the ETUC and its affiliates during 2012 and beyond**

The mobilisation of the ETUC will certainly not stop at the end of 2012, as it did not begin with the start of it.

But, independently of national initiatives which can be taken and applied during this year, the ETUC has already undertaken a specific initiative.

In fact, it has submitted a project entitled: “The year 2012: For better intergenerational solidarity and for active ageing –overcoming the obstacles to keeping older workers in employment and facilitating access to younger workers”. Through this project, the ETUC in cooperation with FERPA and its Youth Committee plans to benefit from the dynamic offered by the institution of this year 2012, consecrated to active ageing and intergenerational solidarity, to launch in a concerted way a new mobilization on this theme.

In the course of this project, apart from sharing and exchanging good practices applied in different Member states to improve access and/or remaining in employment of all without discrimination, **a trade union plan of action** will be presented, discussed and published for the attention of organizations and trade union representatives.

It will be angled on three priorities, adopted by the Executive Committee and will confirm them;

These priorities are threefold:

- **Youth employment**, acting principally upon quality of training and jobs proposed;
- **Active ageing**, mobilizing primarily on working conditions and health and safety in the workplace, whilst allowing employees to retire earlier after long careers or arduous professions;

- **The quality of pensions**, guaranteed by Social Security systems and by perennial financing, based on intra and inter-generational solidarity and sufficient to allow all pensioners and particularly women to live in dignity without recourse to benefits.

## **The ambition of the ETUC and its affiliates**

In these periods of crisis and benefiting from the synergies which will be born during this year 2012, the ETUC and its affiliates will mobilize in order to realize synthesis between active ageing and intergenerational solidarity, through participation in the labour market. They intend to benefit from the "European Year 2012 for Active Ageing and for Intergenerational Solidarity" to promote, as much for the youngest as for the oldest, equal opportunities in the areas of participation and continuation on the labour market, by awareness raising and mobilization of actors in the field who are the social partners and paying particular attention to women whatever their age. In other words, to reflect on the ways and means to be put in place in each country, to realize this objective, insisting on the aspects of employment and training, be it basic education or lifelong learning. For both are essential factors in order to integrate the labour market, but also to remain in it, particularly by enabling people to confront its evolution.



# ACHIEVING SOCIAL PROGRESS IN THE SINGLE MARKET: PROPOSALS FOR PROTECTION OF FUNDAMENTAL SOCIAL RIGHTS AND POSTING OF WORKERS

**Resolution adopted by the Executive Committee  
on 7-8 December**

## **For firm and fair ‘rules of the game’ in the single market**

The ETUC has long been calling for a single market framework, which ensures a climate of fair competition, guarantees the respect for the rights of workers and prevents fundamental social rights to be undermined. The ECJ judgments in the Viking, Laval, Ruffert and Commission vs Luxembourg cases have made the need for such rules even more urgent.

The ECJ cases exposed the weaknesses of the current EU legal framework:

- The ECJ confirmed a hierarchy of norms, with market freedoms highest in the hierarchy, and the fundamental social rights of collective bargaining and action in second place;
- The ECJ interpreted the Posting of Workers Directive in a very restrictive way, limiting the scope for Member States and trade unions to take measures and action against social dumping and to demand better protection and the non-discrimination between local and migrant workers in the host country.

The consequences of these cases for Social Europe are far-reaching. They threaten social partnership models. Far from the promised social progress, workers everywhere in Europe are now paying the price of the single market.

Since 2008, the ETUC has been urging the EU institutions to take action to address these problems. The EU should revise the current legal framework by adopting a Social Progress Clause, which should clarify the relationship between economic freedoms and fundamental social rights, and conducting a thorough revision of the Posting of Workers Directive (PWD)<sup>1</sup>.

Nearly four years after, the Commission will finally take legislative action. It will propose a Regulation on the basis of Article 352 TFEU on the relation between fundamental social rights and economic freedoms (the so called 'Monti II Regulation') and a Directive on the implementation of the PWD.

**The ETUC is concerned that these proposals will not provide a sufficient response to the current challenges. The ETUC has already welcomed the principle of a Monti II Regulation as a step in the right direction, but also stressed that this should not mean that our demand for a fully fledged Social Progress Clause would fall off the agenda. In addition, the current proposal to improve the implementation of the PWD is needed but does not by itself respond to all the challenges posed by the ECJ cases. A complete review of the PWD is therefore necessary.**

### **Trade unions' demand for a Social Progress Clause is more relevant than ever**

Since 2008, the ETUC has been calling for a Social Progress Clause in order to address the general implications of the ECJ cases and of any future case law. The Social Progress Clause should take the form of a Protocol, to be attached to the European Treaties and with the same legal value. The role of this Protocol is to redress the balance between economic freedoms and fundamental social rights. Following the adoption of the Protocol, it should be clear to the European courts, in particular the ECJ, that the provisions of the Treaties and secondary legislation should be interpreted in the light of the following elements:

- the single market is not an end itself, but is established to achieve social progress for the peoples of the Union

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<sup>1</sup> ETUC Resolutions of March 2008, April 2009, March 2010.

- economic freedoms and competition rules cannot have priority over fundamental social rights and social progress, and that in the event of conflict social rights shall take precedence
- economic freedoms cannot be interpreted as granting undertakings the right to exercise them to evade or circumvent national social and employment laws and practices, or for the purposes of unfair competition on wages and working conditions.

In the Single Market Act<sup>2</sup>, the Commission announced that it would adopt legislation clarifying the exercise of freedom of establishment and the freedom to provide services alongside fundamental social rights, in particular the right or freedom to strike. This will be translated into a proposal for a Regulation (the so called 'Monti II Regulation'). According to the Commission, this Regulation will recognise that there is no explicit conflict between the exercise of the right to take industrial action and the economic freedoms. It will underline the important role of national courts in applying the proportionality test on a case-by-case basis, while reconciling the exercise of fundamental social rights and economic freedoms.

In the Athens Manifesto, the ETUC committed to demand and campaign for fundamental social rights to take precedence over economic freedoms and for this principle to be enshrined in a Social Progress Protocol in the European Treaties and internal market regulation known as Monti II. In particular, a Regulation cannot replace our demand for a Social Progress Clause.

First, whilst secondary legislation is to be interpreted in the light of the Treaties, a Protocol is at the highest level. In other words, the Social Progress Clause is the only instrument which can fully address the current Treaty imbalance between economic freedoms and fundamental social rights.

Secondly, a Regulation may not be able to redirect the ECJ interpretation of the Treaties. A Regulation merely stating that economic freedoms and fundamental social rights are equally important will present a risk to trade unions as the ECJ case law could as a result be further strengthened

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<sup>2</sup> COM (2011) 608 final.

in secondary legislation, thereby making it impossible for the ECJ and/or national courts to mitigate the consequences of the Laval and Viking judgments in future cases. Although this principle was already expressed in the four judgments, the ECJ imposed upon national courts a restrictive test to determine on a case-by-case basis whether the exercise of the fundamental right to take collective action can be justified when it conflicts with economic freedoms.

The proportionality test laid down in the Viking judgment constitutes an intolerable interference with the fundamental right to take collective action. Judges are now empowered to decide whether a collective action is a suitable means. The uncertainty resulting from such assessments has already been condemned by the ILO Committee of experts as having "a significant restrictive effect on the exercise of the right to strike in practice in a manner contrary to ILO Convention C87"<sup>3</sup>. Furthermore, the supremacy of economic freedoms over fundamental rights expressed in the ECJ proportionality test runs against the interpretation by the European Court of Human Rights (ECHR) of Article 11 of the European Convention of Human Rights.<sup>4</sup>In light of the forthcoming accession of the EU to the European Convention of Human Rights, this incompatibility must be urgently addressed.

Finally, although it is important that the national courts are given great margin of manoeuvre in those Member States where judiciary systems are competent to decide on matters linked to industrial relation systems, the ETUC stresses the need to find a European solution to the problems created by the ECJ judgments. It is impossible for a Regulation on its own to prevent national courts from referring preliminary rulings to the ECJ where they deem it useful. Moreover, preliminary rulings are compulsory whenever an unclear question of interpretation of EU law arises. It is therefore essential that a Monti II Regulation does not restrict trade unions' right to take collective action.

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3 International Labour Conference 2010, Report of the Committee of Experts on the Application of Conventions and Recommendations, p.236-7.

4 Demir and Bakayara Application 34503/97 and Enerji Yapi-Yol Application 68959/01.

In sum, the proposal for a Monti II Regulation must not lead to a further strengthening of the ECJ case law nor to an interference with national practices with regard to the exercise of the right to take collective action. In particular, a solution must be found to the proportionality test, which constitutes a breach of fundamental rights. Furthermore, the Regulation will not replace the ETUC demand for a Social Progress Protocol. On the contrary, the Regulation is a first step towards the adoption of the Protocol. In view of a possible Treaty change, the ETUC will insist on the adoption of the Social Progress Protocol.

### **Posting of Workers: finding the right response to the challenges caused by the ECJ cases**

Apart from clarifying the exercise of fundamental rights in the framework of the economic freedoms of the single market, the Commission proposes to improve the enforcement of existing rules via a separate Directive, which would include provisions on administrative cooperation, controls and sanctions, and a clearer indication of the constituent elements relating to a posted worker and the establishment of the service provider.

Initiatives aiming at guaranteeing more effective enforcement mechanisms of EU law are welcome, but an enforcement Directive will not on its own solve all the problems caused by the ECJ cases. **Although an enforcement Directive is necessary to fight abuses and circumvention of the applicable labour laws, the core provisions of the PWD also need to be revised.**

**It appears that the Commission's proposal will only address issues relating to the scope of the PWD and the monitoring and enforcement mechanisms. An enforcement Directive with such limited ambition would fall short of six of the eight ETUC demands for a revision of the PWD.<sup>5</sup>**

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<sup>5</sup> <http://www.etuc.org/r/909>

- *The social objectives of the PWD must be restated*

The objectives of the PWD, i.e. respecting the rights of workers and ensuring a climate of fair competition must be more clearly laid down in the PWD. In particular, a reference to the social policy objectives of Articles 151 and 153 TFEU would help to ensure a more coherent interpretation of the PWD. It is unclear to which extent an enforcement Directive could broaden the legal basis of the PWD.

- *The fundamental right to collective bargaining and to take collective action must be safeguarded*

Trade unions throughout Europe must be allowed to approach and put pressure equally on local and foreign companies to improve working conditions and demand equal treatment. This right must be clearly asserted in the context of posting, regardless of parallel discussions on the Monti II Regulation.

- *The PWD must only cover situations of temporary postings*

The Commission will probably try to further qualify the scope of the PWD so as to tackle situations where service providers supply their services on a quasi-permanent basis or without actually being genuinely established in another Member State.

Against this background, the ETUC would stress the following points:

- **The new instrument must introduce the legal presumption that the habitual place of work within the meaning of the Rome I Regulation should be deemed to be in the host Member State, unless it is established that the situation is one of genuine posting.** The application of a country of origin principle for cases falling outside the scope of the PWD would be unacceptable.
- **Posting within the meaning of the Directive should be of short duration. Workers who are posted for a longer period must be considered as habitually employed in the host Member State.** A two years time limit has been discussed by the Commission's services. This is unacceptable as the majority of postings do not exceed a few months. Such a long time period would in fact deprive the new provisions from any useful effect. The length of posting also varies between sectors and the social partners may therefore have an

interest to negotiate the duration in accordance with specific needs in the host country.

- The Directive must also ensure that a change of status of the posted worker into a worker habitually employed in the host Member State does not lead to a deterioration of the terms and conditions of employment of the worker, including for instance allowances and compensation of accommodation costs by the employer.
- **Posting within the meaning of the PWD must be justified in the context of a genuine transnational provision of services.** This means that workers whose employing company in the alleged Member State of establishment is in fact a letter box company must benefit from the Treaty provisions on free movement of workers and have the right to non-discrimination in the host Member State. The existence of a habitual employment relationship of at least three months in the Member State of origin could be an indicator as well as the existence of genuine economic activity.
- Both quantitative and qualitative criteria are necessary to determine the existence of a genuine posting situation. This would help preventing absurd situations such as posted workers sent on the basis of a succession of contracts. The list of criteria must be binding in its entirety in every Member State. Undertakings throughout the EU must abide by the same rules and not be able to pick and choose the most convenient criteria.

- *The minimum character of the PWD must be restored*

Equal treatment with regard to wages must be guaranteed, as opposed to minimum rates of pay only (Article 3.1 PWD). Furthermore, the new instrument should clarify the applicable situation to temporary agency workers. Given the specificity of the rules concerning temporary agency work, especially having regard to the provisions surrounding the equal treatment principle, the Temporary Agency Work Directive and PWD must not contradict each other.

- *The different industrial relations models must be respected*

Less rigid criteria should be developed to judge if a collective agreement can be upheld vis-à-vis a foreign service provider, for instance in situations in which the majority of local companies is in practice bound by the collective agreement (Article 3.8 PWD).

- *Public authorities should be allowed via social clauses in the procurement contract to demand observance of locally applicable collective agreements*
- *The very restrictive interpretation of public policy provisions must be revised so as to include social objectives and the protection of workers (Article 3.10 PWD)*

Member States should be allowed to extend the protection of statutory employment rights to posted workers.

- *Effective monitoring and enforcement mechanisms must be put in place*

Experience in the Member States suggests a significant lack of enforcement of the current provisions of the PWD. This has been acknowledged amongst others by the Commission and the European Parliament. The strengthening of the rules and in particular a better defined scope so as to avoid the abusive use of posting, means that the problem will become more acute.

In practice, an adequate enforcement of the rules involves two aspects:

- **The control of the observance of the applicable terms and conditions of employment**

For the ETUC, it is important that Member States and social partners must be given the means to use effective monitoring and enforcement mechanisms in the host Member State, for instance to check that the posted worker is really habitually employed in the country of origin. Effective means of control should include:

- The appointment of a representative to undertake the responsibilities of the service provider as the employer;
- Prior notification by service providers of the intended posting. This is a basic mechanism, already in place in many Member States to ensure effective monitoring and control;
- The requirement to keep and store relevant documents in the territory of the host country; and



- The fight against bogus self-employment is crucial to halt potential abuses. In particular, the competent entity must be given the means to verify that the “self-employed worker” is not repeatedly employed for a substantial part by the same employer and that there is no link of dependency between the self-employed and the employer.
- **Appropriate measures in case of breach of the obligations in the PWD and national law**

Effective and dissuasive sanctions are indispensable in order to protect workers against abuses. In this regard, a joint and several liability mechanism must be introduced. Recent years have seen the increase of subcontracting across the EU. By creating extremely complex networks of subcontractors, general/main contractors can create easy ways to circumvent legal or collectively agreed labour standard and working conditions.

The proposed instrument on posting should stipulate that the general/main contractor(s) is liable for the compliance, by all subcontractors, with the applicable terms and conditions of employment, and social security contributions. The basic principle is that general/main contractors should be encouraged to select bona fide subcontractors and to carry out appropriate supervision.

# 04

## THE PROPOSED EU MULTIANNUAL FINANCIAL FRAMEWORK AND COHESION POLICY 2014-2020: ETUC POSITION AND CALL FOR CONSULTATION

Adopted by the Executive Committee  
on 7-8 December

### Foreword

On the **26 June 2011** the Commission issued **the proposal on “A Budget for Europe 2020”**, defining the new EU financial perspectives for the period from 2014 to 2020. On the **6 October** the Commission published its proposals for **the Regulation** covering all the EU structural instruments and the legislative package of EU regional, employment and social policy for 2014-2020.

These proposals have been submitted to a **Structured Dialogue with civil society and stakeholders** (associations of local public authorities, NGOs, social partners, citizens...). This procedure should be concluded by the end of the year and **in January 2012 the Commission should issue the last proposals’ package**, to be submitted to the EU Parliament, the Council, the Committee of Regions and the Economic and Social Committee.

The ETUC deepened the discussion with the affiliates on the Commission’s proposals in the last months, in the **Economic and Social Cohesion Working Group** and in the **Executive Committee in October**, also on the basis of the last EC’s Resolution adopted on 8 and 9 March 2011.

The Executive Committee on the 19-20.10.2011 produced a **Discussion Note** on this issue, that is a background document for this draft Resolution.

## The economic context

To carry out an adequate analysis of the new European financial perspectives we can't avoid considering **the general context of deep economic crisis**, which has radically changed the premises upon which the Europe 2020 Strategy was based.

**The goals and instruments contained in the Europe 2020 Strategy, which are fundamentally positive, must be better focused and adapted to the altered situation.** This should be done within the framework of a regulated and inclusive labour market, one that offers European citizens opportunities for quality and stable jobs in line with the skills they have acquired.

**Structural Funds are not sufficient, on their own, to tackle the crisis.** Europe needs **different Economic Governance**: one based on investments, solidarity and social integration instead of blind austerity. **The EU Budget has to be reformed according to these principles.**

## ETUC position and call for consultation

### *Partnership principle and consultation of social partners*

#### I

The ETUC asks the Commission for a **formal consultation, reserved for social partners, on the whole proposed new EU budget and Regulations of the Structural Funds**, because the extraordinary context of the economic crisis requires a proper involvement of social partners and greater than in the past, in addition to the Structured Dialogue already launched by the Commission with the larger civil society. **The Social Partners in fact hold a high level of representativeness between employers and employees** and could bring a strong contribution in defining objectives and achieving results of the cohesion policies.

#### II

The ETUC believes that the partnership principle has a key role to play in ensuring that measures related to the EU Structural Funds function properly. **The Structural Fund Regulations need to clearly define the partnership principle** instead of merely referring to «current national

rules and practices», while at the same time **clearly defining the role of each partner at national, regional and local level.**

### III

**Social partners must have access to technical assistance** in order to ensure not only the strengthening of their capacities but also their **coordination and representation in the ad hoc committees and decision-making procedures**, which define and implement the Operational Programmes, at all levels.

### IV

The current way of consulting social partners together with Member States in the ESF Committee could be a good basis for extending it to all Funds. **A permanent tripartite Committee (EU Commission, MS, social partners) concerning the whole Structural Funds** has to be set up, preserving at the same time **the ESF Committee in the existing form.**

*Incomes, fiscal measures and budget's amount*

### V

The ETUC welcomes, in principle, the Commission's proposals for an FTT and a harmonised European VAT. However there is concern that the EC proposes that revenues raised from an FTT should be used to offset member states' contributions rather than to fund investment. This would undermine the initial objectives of the ETUC campaign calling for an FTT. **The Commission's proposed FTT would strike at the financial speculators, but would not gather additional resources to support sustainable development and economic growth.**

### VI

There is the possibility that the FTT would not be approved in the European Council, or that it could be approved with a reduced scope. **In this case it would be very important to assure that the whole EU budget would not be cut.**

### VII

**Under the Commission's proposal, the total amount of the EU budget would, in any event, be decreased despite the introduction of the FTT and**

**the increase of European Social Fund.** The ETUC has previously requested an increase in the EU budget and our first priority is to, at least, preserve it at its current level. The position of some Member States that are seeking to **freeze the EU budget and reduce the amount of the Structural Funds is worrying and unacceptable,** especially in the current economic context.

## VIII

In any **harmonised European VAT** it would be important that Member State **specific zero-rates and exemptions are retained** (e.g. the UK exemption on food).

## IX

The ETUC supports **the proposals, which aim to introduce Eurobonds and Euro Project Bonds.** These tools would be useful not only to address public debts, but also to improve investments and economic and social cohesion.

*Social priorities, European Social Fund, European Globalization and Adjustment Fund*

## X

**The EU budget has to be strengthened especially in the chapters supporting economic growth, social cohesion, education and training, innovation, green economy and sustainable development, at national and regional level.** Cohesion policy is not just about reducing disparities between regions, although this must remain a key objective. It must also be about promoting a society enjoying full employment, equal opportunities, social integration, thereby generally strengthening the European Social Model. **These are the priorities on which the new EU budget should be focused.**

## XI

**The European Social Fund should be the instrument of choice for supporting the implementation of the European Employment Strategy** and it must retain this role within the Europe 2020 Strategy. In the current exceptional context, the ESF must also be focused on **fighting the economic crisis and on protecting workers and the most disadvantaged citizens from its effects.** Concretely it must provide **support to the people who have lost their jobs and need to be integrated in the labour market.**

## XII

The ESF should also become an instrument in promoting decent work. Mobility should be supported by ensuring the concept of “fair mobility”, fighting social dumping, ensuring that labour standards and legal requirements are always fully respected. In order to exclude the disadvantages of mobility, jobseekers and mobile workers must be comprehensively informed and advised.

## XIII

The European Regional Development Fund and the European Social Fund must particularly support the challenges of the structural change the process of «Greening the Economy» will bring along. The ESF has to support workers whose qualifications have to be changed or who lost their jobs and need to be reintegrated in the labour market.

## XIV

In the ETUC’s opinion, the ESF is not the proper tool to address fight against poverty and food aid, as proposed by the Commission. These objectives could be better achieved by the ERDF.

## XV

The ETUC considers that the European Globalization and Adjustment Fund must be included in the ESF, in order to better focus on unemployment and to facilitate its use, as to ensure the same coherence between the principles of both Funds, above all concerning partnership and involvement of the trade unions. **The ETUC does not support the inclusion of unemployed farmers within the scope of this fund, either by allocating the bulk of the fund, or even its management, to the agricultural sector.** The Common Agricultural Policy and the “new reserve for crises” in agriculture can provide support for the farming industry more efficiently.

*Territorial dimension and categories of regions*

## XVI

As it is already the case in the current programming period, the regions would benefit from differentiated support depending on their level of economic development. **However that level should not be measured only**

on the basis of per capita GDP. Other criteria also need to be taken into account, including unemployment rates, employment and activity rates, skill levels, poverty rates, and the level of well-being and social inclusion as well as the rate of school-leaving. Furthermore, **the concept of “region” should be assessed carefully and to as local a level as possible**: some regions could appear by most measures to be relatively prosperous (by GDP per capita) but could hide pockets of extreme deprivation.

## **XVII**

Regarding the introduction of a new category of **“transition” regions**, with an average GDP per head between 75% and 90%, we can accept this measure only if it does **not undermine the level of resources allocated to the less developed regions’ category**.

## **XVIII**

**Regions with specific geographic or demographic disadvantages need more specific support**. This is especially the case where regions on the EU’s outer borders, the northernmost regions, island regions or mountainous regions are involved.

## **XIX**

The cohesion policy’s **current Objective 3 referring to cross-border, transnational and interregional cooperation needs to be reinforced**. **Macro-regional strategies** also need to be sustained. In addition, **the border regions and the Euroregions**, with their increasingly prominent role in the context of the current programming period, must be supported and need to be able to count on the participation of social partners in decision-making bodies and in the implementation of set targets.

*Procedures, coordination, performances*

## **XX**

The ETUC shares the opinion that there is a need to **better coordinate the funds and to improve the evaluation, performance and results of their use**. The ETUC supports also all the measures that aim to **reduce and focus the priorities** of the Structural Funds, to **reduce bureaucratic constraints, to speed up expenditure**.

## XXI

Performance indicators need, therefore, to be defined, but it is also important to have both quantitative and qualitative criteria. This includes the evaluation of the results in terms of the efficiency of the measures taken, the quality of the jobs created, and the list of the positive measures implemented to ensure social inclusion.

## XXII

The ETUC would, however, have serious reservations about an approach linking the granting of social-oriented funds only to results, especially where «results» are defined in a narrow way. Looking at employment policy and, more broadly, social policies, long-term and qualitative aspects are vitally important. Moreover, if the granting of funds is linked to achieving immediate results, this runs the risk that those who are furthest from the labour market – and therefore least likely to achieve “positive” results – will have less or no access to these funds.

*Member States' agreements and conditionalities, co-financing rules*

## XXIII

The ETUC is interested in discussing, together with other social partners, the new agreements between the Commission and MS on the conditions regarding the use of the EU funds. The conditionalities should certainly focus on selected and efficient objectives, but must not be punitive to the less developed MS and have to be finalized to sustain economic and employment growth and social cohesion.

## XXIV

Above all, the ETUC strongly rejects the Commission's proposal concerning the application of financial sanctions and incentives on Structural Funds, linked to the Stability and Growth Pact. These sanctions would penalize already weak Member States, regions and localities. Moreover, European solidarity, which is still not developed enough, would be jeopardised as a result of failures to respect macro-economic commitments. The result would be the impoverishment of the people of the European Union and thus contrary to the basic principles of economic, social and territorial cohesion policy as reaffirmed in the Lisbon Treaty.



## XXV

The problem of the low use of EU resources by MS must also be addressed, by analysing the real reasons for it and identifying **tools and incentives to increase spending**. It would be useful to **adapt the spending rules to the economic crisis and unemployment crisis, by temporarily reducing co-funding obligations for the less developed countries**. The ETUC also asks for a stronger involvement of social partners in the discussion about this “flexibility” in spending Structural Funds in the crisis context.

## XXVI

**EU finance for infrastructure projects**, including through project bonds, should be subject to the same rules as the structural funds to prevent any windfall profits for private companies and to ensure that the money is invested to deliver also **the social, economic and environmental objectives**. Where **public procurement** is used in project delivery awards should not be on the basis of ‘lowest price’ and should include social and environmental criteria.

# PERSPECTIVES FOR A NEW EUROPEAN HEALTH AND SAFETY STRATEGY (2013-2020)

**Resolution adopted by the Executive Committee  
on 7-8 December**

Each year, around 160,000 people die in the European Union as a result of illness or accidents caused by working conditions. As the current EU occupational health and safety strategy is due to end in 2012, the Commission would normally be preparing its strategy on occupational health and safety for the period 2013-20. It is therefore deeply concerning that the new strategy has been postponed by the Commission. As a central pillar of the social acquis, this cannot be accepted by the trade union movement.

A strong European health and safety strategy is needed as urgently as ever. In the context of the crisis, our own research, as well as recent evidence from the European Foundation (Eurofound) in Dublin and the European Agency for Safety and Health at Work in Bilbao, demonstrates the increasing rates of health and safety risks at work linked to work intensity and insecurity. Tackling prevention and risk management better, while promoting worker involvement through safety representatives, are key to reducing the economic costs and social consequences of accidents at work and occupational illnesses. This is a fundamental element of a 'good jobs' agenda at European level, and should be linked to the employment package due in March 2012 as a signal of the Commission's commitment to quality job creation and development.

The European Union and all of its institutions must uphold and promote fundamental social rights, including the right of every worker to "working conditions which respect his or her health, safety and dignity" (Article 31(1) of the Charter of Fundamental Rights of the European Union). From

this viewpoint, the European Commission and the other European institutions have a duty to improve working conditions.

Active ageing requires an ambitious and strong health and safety agenda – it is therefore all the more appropriate that the new health and safety strategy should be published in the European Year of Active Ageing (2012).

The gulf in terms of working conditions between the different European Union countries is not getting any smaller, while within individual countries, that gulf increases the higher the position held in the social hierarchy. Some 59% of workers within the European Union say that they will be able to continue to do the same work by the time they reach the age of 60. This proportion drops to 44% for the least qualified blue collar workers. Between 2000 and 2010, the gap between these two categories rose from 21% to 27%. The segregation that characterises many professions and business sectors has led to significant differences between men and women in terms of their working conditions and the impact of the latter on their health.

The ETUC intends to use this resolution to highlight the issues that it sees as crucial to address in the forthcoming strategy, which we demand to see published in the course of 2012. Our proposals focus on two aspects: 1) H&S structures must be improved in order to avoid knee-jerk reactions, and 2) priority must be given to improving H&S at work in general not only preventing accidents.

## **1/ Improving the structures of H&S systems**

Experience gathered in several countries has shown that it is helpful to adopt a strategy that combines health and safety representations within companies with regional or site representations for very small companies. The Community strategy should set the minimum targets that each national inspectorate should meet, indicating minimal quantitative objectives, such as a ratio of at least one OSH field inspector per 10,000 workers, a sufficient ratio of inspectors per 1,000 companies and a higher probability of inspection for all companies. Effective sanctions should be taken against employers not respecting their legal requirements. The

next Community strategy must set the minimum targets to be met by multi-disciplinary, competent and independent workplace H&S services.

## **2/ Unions: a key player at all levels**

Unions through their activities have a key role to play in giving new impetus to the EU's health and safety policy. This activity rests on the promotion of the role of worker H&S representatives, increasing the visibility of workplace H&S problems, supporting the definition of collective priorities and mobilising workers to improve working conditions. The ETUC is calling for the introduction of a system to enable the representation of workers in all companies. Worker participation is key at all levels. Experience shows the benefit of an approach combining company-based representation with a regional or site approach to cover very small companies. Trade union health and safety policy is inseparable from industrial relations and collective bargaining systems as a whole. It must consider ways of better organising precarious workers, migrant workers, self-employed workers, and others often neglected by health and safety at work measures.

## **3/ Improving prevention of work-related illnesses**

It is in workplace health that the Community policy can provide the greatest added value, as it is this area that the current strategy has been less effective. ETUC priorities for the upcoming strategy are focused on three main areas: reducing exposure to hazardous substances and, specifically, preventing work-related cancers, preventing musculoskeletal disorders and improving mental health at work.

### **3.1/ Using REACH to provide workers with enhanced protection against hazardous substances**

The primary cause of work-related death is exposure to hazardous substances. The ETUC insists on the vital synergy between the gradual implementation of REACH and the improvement of H&S in the workplace. A potential improvement of REACH must be exploited through a systematic strategy based on workplace H&S. REACH should provide more extensive information on chemical substances and the conditions for their use; encourage the substitution of those substances that are of the greatest concern; and, put in place

mechanisms for companies that use chemical substances to provide feedback to manufacturers, thus increasing the opportunities for monitoring by public authorities. The ETUC has been involved in the activities of the European Chemicals Agency (ECHA) in a bid to increase effectiveness, transparency and union participation these different areas.

It is unacceptable that the revision of the Directive on the protection of workers against carcinogenic agents has taken over ten years without any substantial results achieved. It is vital that the scope of the current directive be extended to include substances that are toxic for reproduction. The substitution of the most hazardous substances must be the first priority for effective prevention. When substitution is technically impossible, exposure should be reduced to minimal levels. Exposure limits must be stipulated for the main substances covered by the directive. A coherent European policy must be drafted on nanomaterials and endocrine disrupters.

### **3.2/ Making progress in the prevention of musculoskeletal disorders**

A framework directive on the prevention of musculoskeletal disorders is crucial to provide a common legislative basis for efforts to prevent these disorders – efforts which must be intensified. It should address all factors that contribute to musculoskeletal disorders and particularly work organisation and work intensity.

### **3.3/ Mental health: too often neglected**

The links between mental health and employment and working conditions are significant. Restructuring, unemployment, precarious employment and poor working conditions are behind major social inequalities from the point of view of mental health. All the surveys conducted on working conditions show that stress is a serious problem affecting an increasing number of workers. Besides, there is a significant link between working conditions and depression or burn-out. Monitoring workers' working conditions more closely is crucial to preventing mental health problems. Effective prevention must also address the unequal overall distribution of work between men and women, the lack of democracy in the workplace and the different factors behind discrimination, harassment and violence.

## **4/ The international dimension**

The process of improving working conditions within the European Union is not divorced from broader developments at international level. The ETUC is therefore calling for the conventions of the International Labour Organisation to be ratified and will shore up its cooperation with unions from other parts of the world. It also wishes to reassert its support of demands for a global ban on asbestos.

### **ETUC ACTION PLAN FOR 2012**

#### *Trade union actions and initiatives*

- 1/ The ETUC calls on affiliates to actively lobby their governments and MEPs through all means to press for the publication of the new OSH strategy.
- 2/ The ETUC calls on its affiliates to organise activities on the 28<sup>th</sup> April 2012 and during the EU Health and Safety Week in 2012 in order to support the demands to “Expand workers’ health and safety representation and enhance representatives’ rights” and “boost the role and resources of labour inspectorates”. The ETUC will collect information from its affiliates and circulate this information in order to give a European dimension to the coming 28th April Worker Memorial Day.
- 3/ The ETUC will organise an exchange of information with European trade union federations on the OSH priorities in order to explore the possibility of a stronger cooperation. A seminar on the role of sectoral social dialogue will be organised.
- 4/ The ETUC will strengthen cooperation with the affiliated confederations in countries which are not members of the EU in order to identify common OSH priorities.
- 5/ In cooperation with ETUI, the ETUC will strengthen the existing networks on chemicals and REACH implementation, and standardisation.

In the field of standardisation, work on the impact of the standardisation of services will be strengthened with the European trade union federations.

- 6/ The ETUC will work closely with the European Trade Union institute and launch initiatives to strengthen exchanges of experiences between trade unions and the various health and safety bodies as regards risks connected with organisation of work, like psychological and social factors. The ETUC will support cooperation between trade union organisations with a view to ensuring that European agreements on stress and violence actually result in tangible improvements.

#### *EU legislation and policies*

The priorities of ETUC for 2012 are:

- a/ the adoption of a new OSH strategy 2013-2020. The trade unions will work at European and national level to ensure that the new strategy sets concrete targets, tackles actual priorities and helps make a real improvement to health and safety;
- b/ REACH: we aim to guarantee consistent implementation and make sure that the trade unions' views are heard during the REACH evaluation that is scheduled for 2012;
- c/ the revision of the directive on carcinogens at work is a key factor in the synergy between REACH and OSH legislation;
- d/ the adoption of a directive on MSD;
- e/ the adoption of a regulation on standardisation;
- f/ the adoption of a comprehensive policy covering the various issues linked to asbestos, in terms of both worker protection and compensation for illnesses and protection of public health.

### *EU OSHA European Campaign 2012-13*

The ETUC considers the European Agency for Health and Safety at Work's European Campaign "Better Health and Safety through Prevention" (2012-2013) to be an important awareness-raising opportunity. It will be aimed at improvements in cooperation between both sides of industry on behalf of better working conditions and higher standards in health and safety. Worker participation on health and safety will be a central theme. The ETUC as a Campaign Partner will promote products co-developed by the Bilbao Agency as well as own products or products developed in cooperation with the ETUI.



# ETUC RESOLUTION ON WORKERS PARTICIPATION AT RISK: TOWARDS BETTER EMPLOYEE INVOLVEMENT

Adopted by the Executive Committee  
on 7-8 December

## The mandate of the ETUC Congress

### I

The "Strategy and Action Plan", as adopted by the 12<sup>th</sup> ETUC Congress, specifies that "***worker participation is a key component of good jobs***" and the "***right to participation is a fundamental right in Europe***". The Athens ETUC Congress 2011 upheld that it is necessary "***to establish a European basic standard***" while respecting different national traditions of workers' involvement<sup>1</sup>.

### II

The Congress has given a clear mandate to the ETUC secretariat to fight for stronger rights: "***There should be a strengthening of worker voice through stronger rights for information and consultation and, in those Member States where such rights exist, a stronger right of representation for workers on company boards. There should be also more worker and other stakeholder participation and a new paradigm for corporate governance... in which the European Works Councils must play a fundamental role.***"

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1 The term employee involvement includes

1/ information (one-way communication from management/employer),

2/ consultation (two-way communication between management and workers' representatives) and

3/ participation (board level representation).

### III

Furthermore, the ETUC Congress demanded "**European minimum standards for worker participation** in order to strengthen the implementation of worker information and consultation rights in the EU and to confirm that the EU respects and promotes different forms of board-level representation in European legal entities like SE, SCE and SPE and in the Member States where such systems exist."

### IV

The ETUC Congress demanded "**that a legislative general framework instrument be developed to achieve better coherence in the rules on worker participation for SE and SCE companies**". This strengthening of rights concerns all existing, pending and upcoming legislation on company law, in particular on the European Company (SE), the European Cooperative Society (SCE), the European Private Company (Societas Privata Europaea; SPE): "All the legal forms of company entity at the EU level (SE, SCE, and pending SPE) must be **subject to binding regulations on worker participation in company boards** and on information and consultation with worker representatives regarding cross-border issues".

### V

A strengthening of worker rights of information, consultation and participation is key. The Strategy and Action Plan stipulated: "*The rights of information, consultation and , must be improved to ensure adequate 'voice' for workers and opportunities for trade unions to negotiate fair solutions on their behalf.*" This process should take place "*in a context of upward harmonisation*".

### VI

These commitments of the Athens Congress in favour of a new model of corporate governance and stronger rights are not easy to fulfil, but quite a challenge for the ETUC secretariat. However, it can build on work done in the ETUC Workers' participation group.

## Introduction

### VII

The main reason for this resolution is to identify potential risks and attacks on workers involvement and to propose action to counter these developments. On the agenda of “Work Programme 2012” of the Commission published on 15 November 2011 features the revision of the Directive 2001/86/EC on **employee involvement in the European Company**: “The initiative would aim to bring about *simplification*”. The objective would be to assess “whether the reasons for the smaller-than-expected number of SEs established to date is linked to the mechanisms laid out in the Directive or the Regulation and the extent to which a simplification of such mechanisms could be justified”. The “main problems” which this initiative intends to address are “in particular the rules on employee involvement”, “the scope of the ‘before and after’ principle”, “double requirements when a European Works Council already exists”. The question is “the extent to which a simplification of such mechanisms could be justified”. The timetable of the roadmap announces a second phase consultation of social partners in the first quarter of 2012. If Social partners do not decide to enter into negotiations following the second phrase consultation, the proposal could be presented in the third quarter of 2012.

### VIII

The second roadmap is on the **Statute for a European Company (SE)**: the Commission is reflecting on possible amendments to the SE-Statute in view of legislative proposals in 2013. As “problems” are identified: the lack of uniformity of the SE legal form across the EU, the high degree of complexity, a high minimum capital, the obligation to have the registered office and the head office in the same Member State, the SE’s employee involvement rules, the activation of shelf SEs. The Commission considers the “review” in parallel to the outcome of the ongoing negotiations on the SPE-Statute. The main policy objective would be “to modernise, streamline and make more effective and attractive the operation of the SE”. From the Commission point of view, the option to address the problems would bring “more advantages to enterprises” and would “entail *simplification* and reduction of administrative burdens”. The ETUC will not accept that workers involvement is sacrificed on the altar of the “better regulation”- or an highly ideological internal market agenda.

## IX

The third roadmap schedules a consultation on the Revision of Directive 2003/72/EC on **involvement of employees in the European Cooperative Society** in the 1<sup>st</sup> quarter 2012 and a second phase either in the 4<sup>th</sup> quarter 2012 or if social partners do not decide to enter into negotiations in 2013. The objective is to assess whether existing arrangements on employee involvement “may be considered responsible for a very small take up of this legal framework and identify any feasible possibilities for *simplification*”. Both issues are dealt with under the premises of the better regulation agenda, the new codeword being “simplification”.

## X

In the field of company law, the guiding principle anchored in the SE and SCE Directives (recital 3), according to which companies are not allowed to make use of European legislation so as to reduce or circumvent existing national participation rights, is losing ground. Provisions related to the negotiation of board-level employee representation in the cross-border merger (CBM) Directive already presented a cutting back compared to the SE pattern. A similar assessment could be drawn about the proposal for a European Private Company (SPE) and doubts are legitimate as regards the forthcoming proposal related to the cross-border transfer of companies’ registered office. While national and European rights of information and consultation remain untouched in the CBM Directive and projects for the SPE statute and the cross-border transfer of registered seat, existing rights for board-level employee representation are under big pressure.

### **Addressing the failures of corporate governance**

## XI

The current discussion on the global economic and financial crisis focuses mainly on financial and monetary issues. However, the failures of corporate governance in controlling risks and in promoting sustainable corporate decision making are still unresolved. The shareholder value paradigm has dominated policy debates and company law for more than two decades in Europe and much of the rest of the world. This shareholder short-termism model is one of the major causes of the crisis. It creates powerful incentives to create shareholder value by externalising costs onto society;

it favours excessive risk-taking and myopic management decisions by insisting that shareholder value ought to be the only goal pursued by corporate management. Questions must be raised how the flawed basic assumptions of the model, that stock markets are the best yardstick for company value and share-based remuneration the most efficient way to reward top management, can be directed in a more long-term and sustainable way of corporate governance.

## **XII**

For the ETUC, the answer to shareholder economy and short-termism is to safeguard and develop employee involvement rights and practice in all kind of companies. The lesson of the crisis is to develop workers' involvement on all levels. A stronger participation of workers in strategic business decisions which are often taken at European or global level is necessary and the current crisis must be considered as opportunity to strengthen worker involvement to strengthen the long-term viability and sustainability of companies. A company is a social organisation with cooperating parties and conflicting interests. A corporate law that gives control rights by default exclusively to shareholder exposes executives to strong pressure to maximise returns to shareholders in the short term. Managerial autonomy is one of the mechanisms to govern an enterprise in the interest of all stakeholders.

## **XIII**

The question of industrial or social democracy is a key question of the 21st century and the future of Europe. If the European integration continues to be perceived as doing damage to Social Europe, as stirring Europe in permanent austerity governance, it will generate an unprecedented anti-European backlash in many Member States. Today, there is already a negative shift in public opinion towards the Internal Market: 62% believe the Internal Market only benefits big companies; 58% think that it has flooded the Member States with cheap labour (Special Eurobarometer 363). From an ETUC perspective, it is essential that there is light at the end of the tunnel. The financial crisis led to a power shift from democracy towards financial industry. It is time to shift it back: The way must be paved for a new era of more democracy at the workplace, stronger industrial policy, and stronger workers' participation rights. This objective is an ambitious one and will not be reached within a few months but it should

be possible to introduce a new momentum into these developments. And the ETUC believes that there is a strong momentum for strengthening workers participation in Europe.

## **XIV**

The SE-Directive has set a political precedent. For the European Company Statute (*Societas Europaea*, henceforth: SE) a historic compromise around the involvement of workers was found after 30 years of discussions and negotiations. The ETUC considers this compromise as the benchmark for any EU legislation touching upon board level representation and a step towards a European minimum standard on participation rights which now has to be taken as basis for a deepening and an extension of those rights, for promoting board level representation in the 16 EU Member States where such systems exist (AT, CZ, DE, DK, ES, FI, FR, GR, HU, IE, LU, NL, (NO,) PT, SE, SI, SK) and in European legal entities. Employee involvement in the decision making process at company level is a central component of the European social model.

## **XV**

The EU has adopted a rather disjointed *acquis* concerning employee involvement. It presupposes existing national systems of employee involvement. Currently, in Poland for instance the system of board level representation is being abolished which sets a major backlash. What is needed is common requirements for employee involvement.

## **Activities on European level and next steps for the ETUC**

## **XVI**

In June 2011, the ETUC responded to the European Commission consultation on the results of a study on the implementation of the Statute for a European Cooperative Society (*Societas Cooperative Europaea*, SCE). In July 2011, the ETUC gave its response to the European Commission Green Paper on "The EU corporate governance framework", which has neglected the benefits of European Works Councils, International Framework Agreements and board-level employee representation in reorienting the way companies are governed towards a longer-term and more sustainable perspective. Reports on both issues are under discussion in the European Parliament (EP) and scheduled for adoption in February

respectively March 2012. The ETUC has to make sure that the compromise on workers' involvement in the SCE will not be questioned and that some general conclusions on the promotion of workers' involvement will be supported by the EP.

## **XVII**

In the European Parliament, an own initiative report on the 14th Directive on transfer of seats is under discussion and scheduled for approval by the EP Plenary in February 2012. The discussions on the proposed SPE Statute have further highlighted the need to ensure that businesses do not abuse the opportunities offered by the internal market to evade their legal obligations that would otherwise be applicable under national law. Accordingly, the ETUC is renewing its call for an open debate on a **14th Company Law Directive on cross-border transfers of registered offices**, based on the minimum requirements on workers involvement anchored in the SE-Directive and with a view to preventing the establishment of 'letterbox' companies. Such an initiative is an essential prerequisite to any further development of European company law, including in particular the adoption of the SPE Statute. The ETUC will monitor closely the developments and try to make sure that the reference point will be the minimum standard anchored in the SE.

## **XVIII**

On November 15, the European Commission published the results of the consultation on corporate governance ("feedback statement") and intends now to combine it with the company law stream. It is not clear in which direction the Commission will go, but it seems that harmonisation and flexibility are still high on the agenda. It must be clear for the Commission that workers' right to information and consultation within the undertaking is considered a fundamental right according to Article 27 of the EU Charter of Fundamental Rights (CFREU) guaranteeing the "worker's right to information and consultation in the undertaking". The Commission, has not only to respect but also to promote these rights (Article 51(1) CFREU). Article 152 TFEU which has been introduced by the Lisbon Treaty as the main improvement in the Social policy Title requires the Union (and its institutions) to promote the role of Social Partners at EU level and to "facilitate dialogue between the social partners, respecting their autonomy". Against this legal background, in particular the

Commission is obliged to do all it can to improve the information, consultation and participation at the appropriate levels. Further, the EU should, according to the Treaty, support and complement the activities of the Member States in this field and may to that end adopt minimum directives (Article 153 TFEU). The ETUC must stress these facts and try to convince the Commission that strengthening of employees' involvement is a step in the direction of less short-termism and less shareholder value, more stakeholder value and sustainability, in short: it would be a step towards a sustainable company. The Commission shouldn't look at companies as money-machines seeking the highest returns from global markets.

## **IXX**

The Commission must understand that the compromise found for the SE is a yardstick and that it was wrong not to respect this minimum standard in the cross-border mergers directive and the proposed SPE, both representing backward steps compared to the SE provisions. The Commission must come back on these and further issues: Problems with shelf SEs must be tackled and the question of employment growth as "structural change" which makes it necessary to renegotiate the participation rights. Forms of escape from co-determination ( e.g. by choosing a legal statute provided by another Member states, such as the British public limited company statute) should no longer be possible; existing loopholes and bypass strategies must be addressed and tackled. The Treaty is clear on this issue and explicitly asks to "support and complement" and thus prevent circumvention of co-determination and other forms of workers participation: "With a view to achieving the objectives of Article 151, the Union shall support and complement the activities of the Member States in the following fields: (e) the information and consultation of workers; (f) representation and collective defence of the interests of workers and employers, including co-determination (Article 153)".

## **XX**

It is not acceptable that the European Commission does not respect the minimum standard of worker participation as anchored in the SE and tries to dilute it further. The first step backward was done with the Directive on cross-border mergers, the next with the European Private Company. The ETUC asks for the minimum standard of the SE being generalised to



all other legal forms, the European Private Company, the cross-border mergers and the forthcoming 14th Directive on the transfer of seat. There is a real and unique chance to do some steps to extend this minimum standard on participation rights. Once the SE-provisions on workers participation established as minimum standard, there will be less ambiguity about the Commission position on workers involvement.

## XXI

The ETUC is strongly opposed to the Commission's proposal for a **European Private Company Statute**. Whilst the ETUC encourages initiatives that improve market conditions for businesses and welcomes any proposals designed to improve the market performance of SMEs, it is adamant that the flexibility of SMEs must not be enhanced to the detriment of workers' rights to sit on the Boards of their companies. It is crucial that the SPE Statute be accompanied by rules governing minimum standards on workers' involvement. It is also essential that the SPE does not put national legal forms – and the participation rights that are attached to it – under pressure. A cross border dimension and minimum capital requirements are therefore essential prerequisite to the establishment of an SPE.

## XXII

Overall, the ETUC recommends a **more sustainable approach in relation to workers involvement in European company law**. As business is increasingly becoming global, the Union must reflect if and how a streamlining at European level of the provisions on employees' involvement can be achieved. Such reflection should not be geared towards downsizing existing national provisions but rather to see how the Union can promote competitive and socially responsible European company forms. The ETUC calls on the Presidency to stimulate such a debate.

## XXIII

Following an initial discussion at the Executive Committee, the next steps could include to lobby the European institutions to come forwards with an agenda to promote workers' participation and to deepen the internal discussion by consulting our experts on other aspects of employee involvement rights like questions of international framework agreements and financial participation. The follow up of the congress should include a conference to discuss and present the ETUC proposals.

## XXIV

This work should be done in view of going from a defensive to a more offensive strategy. Until now, the ETUC strategy has been to fight for European Company law respecting national choices for employees' involvement. The rules of financial capitalism are global, yet, the applicable standards on workers' participation are still shaped at national level. With ongoing globalisation it is becoming more and more difficult to defend subsidiarity approaches defending national provisions. As business goes global and ignores national boundaries, a rethinking of the role of workers' involvement in companies can only be meaningful at European level. The aim would be to provide the European Commission, the Council and the European Parliament with an elaborated ETUC proposal for European standards for employee involvement. This standard should help prevent that registration and localization of the company seat can be organised with a view to avoid workers' participation. A good starting point for this work is the fact that employee influence is now a fundamental right under the Treaty (TFEU).



EUROPEAN TRADE UNION CONFEDERATION (ETUC)



**EUROPEAN TRADE UNION CONFEDERATION (ETUC)**



**Boulevard du Roi Albert II, 5 - B 1210 Bruxelles  
Tel + 32 2 224 04 11 - Fax + 32 2 224 04 54/55  
etuc@etuc.org - www.etuc.org**