



**Commissioner Schmit**  
*Jobs and Social Rights*

**Social Dialogue Initiative – Exchange of views with  
Commissioner Schmit**

(Introductory remarks; reactions for the Council Recommendation and Communication  
exchanges; closing remarks)

**Brussels, 24 June 2022, 9.00-10.00**  
(Berlaymont S3)

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## **Scene setter**

On 24 June, you will meet the leaders of the four main European cross-industry social partners to discuss the upcoming social dialogue initiative. Members of ETUC, BusinessEurope, SGI Europe, SMEUnited and DG EMPL will attend this meeting [*List of participants in Annex 2*]

## **Choreography**

For this meeting, **you will provide** the **introductory** (9.00-9.05) and the **closing remarks** (9.55-10.00). There will be two exchanges on both the Council Recommendation (9.05-9.30) and the Communication (9.30-9.55).

ETUC, for one side, and BusinessEurope, SGI Europe and SMEUnited, on the other side, will have 10min for each exchange. Then, **you will react on both topics** (5min each approx.).

## **Previous meetings**

On 19 November, you held a meeting with the four main cross-industry social partners to kick start the preparation of the 2022 Social Dialogue Initiative. Since then, the Commission is closely consulting social partners on the initiative through various meetings:

- **29 March:** Exchanges of views on the new supporting frame for social partner agreements
- **31 March:** The sectoral social dialogue review
- **28 April:** Dedicated hearings on the Communication
- **31 May:** The Council Recommendation

**On 19 May**, EMCO held an exchange of views on the Social Dialogue Initiative with the participation of the cross-industry social partners. **On 14 June**, the Social Dialogue Initiative was again discussed at the Social Dialogue Committee meeting. [*Flash report in Annex 3*].

- **On the Communication**, social partners notably raised the question of clusters of Sectoral Social Dialogue Committees, fearing overlaps with the role of cross-industry social partners, and the supporting frame for social partner agreements, objecting to any type of impact assessment.
- Regarding the **Recommendation**, social partners stressed the need to establish a sound mechanism for monitoring and reporting including the social partners.

## **Next steps**

On **28 June**, cross-industry social partners are organising a conference on 'Strengthening Europe through Social Dialogue - European Social Dialogue Work Programme 2022-2024'.

At this occasion they intend to sign their new **Joint Work Programme 2022-2024** and release a joint statement on the social dialogue initiative. **EVP Dombrovskis** will take part in the high-level round table on the future of EU social dialogue. **DG Joost Korte will replace you** in a session discussing the priorities of the new work programme.

**A call for evidence will be launched** on the initiative at the end of June.

## **Speaking points**

### **Introductory remarks (9.00-9.05)**

#### ***[Introduction]***

- I would first like to congratulate the cross-industry social partner organisations for the conclusion of their **new joint work programme 2022-2024**.
- The six priorities selected are all of high relevance for the European Commission.
- The Commission services stand ready to support you in the implementation of the work programme.
- We are looking forward with great interest to your **negotiations of an updated social partner agreement on telework and the right to disconnect**. This is a topic of high importance for European workers and companies.
- Your negotiations also form **part of the response to the calls of the European Parliament and the Council** for common solutions to the challenges of telework and the right to disconnect.
- Since our last meeting back in November, **several consultation meetings** with you took place at services level.
- We have listened very carefully to your positions and proposals expressed at the two dedicated hearings. Many thanks also for your written contributions.
- As for the **timing of the initiative**, it is currently planned for adoption at the end of September<sup>1</sup>.

#### ***[Proposals for strengthening EU social dialogue]***

- The **Communication** provides us with the opportunity to take stock and look at ways for further reinforcing European social dialogue and better exploiting its potential, in order to best meet current and future challenges.
- Taking into account the extensive consultations we have had with you, the College **will propose a set of measures to reinforce European social dialogue laying the basis for** making it more productive, strengthening the involvement of social partners in EU policymaking and improving the Commission's support for social dialogue
- I am pleased to note that some of the possible **action proposals for strengthening EU social dialogue have been favourably received** by you:
  - the establishment of a network of Social Dialogue Coordinators;
  - the idea to organise shortly after the adoption of each Commission's Work Programme a high-level information session for social partners;
  - a special focus on the implementation of autonomous social partner agreements in the main social dialogue call for proposals;
  - the new platform for the promotion and analysis of EU social dialogue;
  - the new visiting programme for young future leaders of social partner

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<sup>1</sup> Tbc with LPP

organisations.

- The Commission will also **promote social partner agreements** for which social partner request the implementation through EU law.
- The **recent judgements of the European Court of Justice** confirmed that it is for the Commission to determine on a case-by-case basis whether it is appropriate to submit to the Council a proposal for a decision implementing that agreement at EU level.
- I understand that you would welcome the **possibility of receiving an early indicative feedback** from the Commission during the negotiations. The same goes for the **legal advice** given by the Commission services.
- We also noted your **questions regarding the need for an impact assessment and the time frame** of the Commission's assessment.
- Discussions within the Commission are on-going on these matters. However, I personally think that a proper impact assessment should be avoided as much as possible<sup>2</sup>.
- Originally we had hoped to agree with social partners in time for the Communication on a **new approach for organising the meetings of the Sectoral Social Dialogue Committees**.
- We have closely listened to your feedback, and the Commission will continue for the moment to organise the Committee meetings.
- At the same time, we will **need to continue our discussion and explore a new approach for organising these meetings** to avoid bad surprises stemming from the pressure on the administrative budget of the Commission.

#### ***[Council Recommendation]***

- Coming to the Council Recommendation, let me recall that it should **support the implementation of principle 8 of the European Pillar of Social Rights**.
- It should therefore address **three main areas**:
  - **The promotion of social dialogue** with focus on involvement and consultation of social partners as an underlying principle of the initiative.
  - **The promotion of collective bargaining**, aiming to encourage the social partners to conclude collective agreements and to ensure the necessary conditions enabling a genuine bilateral social dialogue.
  - **Enhancing the capacity of the social partners** at all levels.
- Unfortunately, a Council Recommendations has its limits. It can't have any binding force or lead to sanctions.
- At the same time, a Council Recommendation can lead to some political pressure and could be used by national social partners where necessary.
- This also links to the question of **monitoring and reporting** which you brought up very strongly.

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<sup>2</sup> LTT tbc by CAB

- The Recommendation will include some monitoring provisions, building first on tools like the EMCO review and the European Semester, to which others could be added.
- We plan to include the idea of stock taking event, to be organised around two years after the adoption of the Recommendation, jointly with the EU social partners.
- I am looking forward to listening to your comments and proposals.

### **Closing remarks (9.55-10.00)**

- Let me thank you very warmly for this interesting exchange and your constructive approach.
- **Strengthening social dialogue at European level requires collaborative efforts.** The role of the Commission is to ensure an enabling framework for European social dialogue.
- Ultimately, **it depends on you**, the European social partners, if and how the existing instruments are used and which concrete social dialogue outcomes are achieved.
- Let me wish you all the best for your social dialogue conference next week. The Commission will be well represented by Vice-President Dombrovskis and Director-General Joost Korte.

### **Background**

#### **Social Dialogue Initiative**

The social dialogue initiative will consist of **two components**:

- a **chapeau Communication** outlining the main challenges ahead in terms of social dialogue and collective bargaining in light of the recovery, the transitions, the new forms for work and the societal expectations. The Communication will outline key actions on strengthening social dialogue at European level, stress the European support to national social dialogue and collective bargaining, recall the international dimension of strong social dialogue and set out actions to improve the analytical underpinning on the topic.
- a proposal for a **Council Recommendation** on the role of social dialogue at national level.

Regarding the **social dialogue at European level**, the communication will take stock of past actions and announce a number of new actions to reinforce it by (2) modernising the organisation of European social dialogue, (3) improving the involvement of social partners in EU policy-making and (4) improving the Commission's support for social dialogue.

The following **proposals for operational actions are supported by social partners**:

- Appointment of a Social Dialogue Coordinator in each relevant DG.
- special focus on the implementation of autonomous agreements in the main social dialogue call for proposals;
- organise shortly after the adoption of each Commission's Work Programme a high-level information session for social partners to help them identify initiatives on which they could be consulted in a targeted way;
- new platform for the promotion and analysis of EU social dialogue;
- new visiting programme for young future leaders of social partner organisations.

Another key action will be the setting up of a **new support frame for social partner agreements**, which will clarify both the legal and administrative support and procedures for social partner agreements following the EPSU judgment.

This new approach would provide social partners with the possibility to request, before the start of negotiations or at any moment during the negotiation process, **early indicative/informal feedback and expert advice from the Commission services** flagging issues that could potentially impact the implementation of their agreement as EU law (e.g. any possible misalignment with the scope of Art 153 TFEU, possible overlap with existing legislation, etc). This feedback would not prejudge the final Commission position.

Social partners call upon the Commission to only conduct an **impact assessment** on their agreements in exceptional cases. The topic was raised particularly in the context of the envisaged negotiations by cross-industry social partners of a new agreement on telework.

The **Better Regulation tool #10** states that whenever the impacts of the agreement are likely to be significant, the Commission may carry out an impact assessment.

The suggestions to **modernise the existing structure for the 43 sectoral social dialogues which are currently managed by DG EMPL** has led to intensive discussions with social partners. During the consultation, DG EMPL suggested to

1. establish flexible clusters to allow more cooperation and synergies across the committees on common topics and potentially more joint outcomes;
2. encourage mergers of committees to reflect developments in labour market and the economy since their establishment; and
3. potentially establish new committees in sectors covering substantial workforce and having a high relevance to the Commission's policy agenda<sup>3</sup>.

While social partners welcome support for establishing new committees, they **insist on their autonomy** regarding mergers, and their views on clusters diverge.

The current organisation of the EU sectoral social dialogue is set out in Commission **Decision 98/500/EC**, which only caters for establishing committees, however, does not provide a procedure for discontinuing them.

Should the modernisation of the committees be announced in the Communication, then the revision of the Decision would therefore be required to modernise the current set-up.

DG EMPL also suggested to replace the current **meeting organisation** provided directly by the Commission (DG EMPL organising around 170 meetings each year) by a new funding tool (using existing resources under the social dialogue prerogatives) providing multi-annual grants to social partners to better address their specific needs and enhance flexibility and address recurring complaints on the way the meetings are organised (regarding the calendar, venue, format, number and length of meetings, and interpretation), as well as to reflect the Commission's greening targets on expert meetings and travels, and resource constraints.

Social partners object to such a new tool, requesting that the Commission continues organising (and return to physical) meetings, as it was the case before Covid-19. As it proved not possible to agree with social partners ahead of the Communication on a new approach for organising the meetings of the Sectoral Social Dialogue Committees.

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<sup>3</sup> In July 2021, the European Public Service Union (EPSU) and the Social Employers (FESE) jointly requested to the Commission Schmit the establishment of a new Sectoral Social Dialogue Committee (SSDC) on social services covering areas such as long-term care and child care. DG EMPL is currently assessing the request against the criteria set in the 1998 Decision on the establishment of SSDCs.

The Commission will continue for the moment to organise the Committee meetings. However, there is a need to continue our discussion and explore a new approach for organising these meetings.

The **Social Dialogue Recommendation** would **support the implementation of Principle 8** of the European Pillar of Social Rights. The legal basis of the Recommendation would be Article **153 (1) (f)** of the Treaty, which enables the Union to support and complement the activities of the Member States in the field of representation and collective defence of the interests of workers and employers, including co-determination.

This paragraph requires **unanimity** voting in Council. In line with **Article 153 (5)**, the Recommendation **must not include provisions related to the right of association, the right to strike or the right to impose lock-outs**, which fall outside EU competence.

The draft Recommendation would make it clear from the beginning that it cannot interfere in the **contractual freedom of social partners** or the collective bargaining systems of Member States. It would encourage measures adapted to national traditions, rules and practices, thus **respecting national specificities as well as social partners' autonomy**.

As the initiative will complement the Commission's proposal for a Directive on adequate minimum wages in the EU, the contents will also be aligned with the progress of negotiations on that file.

The **Council Recommendation will address:**

- Promotion of social dialogue with focus on involvement and consultation of social partners as an underlying principle of the initiative.
- Promotion of collective bargaining, aiming to encourage the social partners to conclude collective agreements and to ensure the necessary conditions enabling a genuine bilateral social dialogue.
- Enhancing the capacity of the social partners at all levels.

In addition, the Recommendation would include short provisions on recommended enforcement of collective agreements (when discussing the collective bargaining) and clear monitoring and evaluation tools (e.g. relying on EMCO, data development and data reporting).

Concretely the **following measures could be recommended** to Member States:

- a) **To promote social dialogue**, by encouraging them to continue ratifying the applicable Conventions of the ILO and ensuring their full application; by ensuring that an appropriate framework for social dialogue is in place, that includes coverage of the new forms of work or atypical employment and facilitates social dialogue, including collective bargaining for all categories of workers; by ensuring the timely and meaningful involvement of the social partners in policy making and implementation and by making use of or strengthening tripartite bodies to support the timely and meaningful involvement of social partners;
- b) **To boost collective bargaining** by asking them to take measures with regard to: the recognition of social partners for the purpose of collective bargaining, based on objective criteria; ensuring that collective bargaining is possible at all appropriate levels, including co-ordination among these levels; ensuring that the collective bargaining is easily adaptable to the new world of work; encouraging constructive negotiations and provision of information; fostering trust among social partners, such as by conciliation, mediation and arbitration; provisions related to the enforcement of collective agreements; promote/support the implementation in the Member States of social partners agreements concluded at EU level.

- c) **To support the capacity of social partners at all levels through:** training; administrative, technical and financial support, where appropriate; encouraging the social partners to put forward new and innovative approaches and strategies to adapt social dialogue to the future of work, including to increase membership; facilitating the full use of existing national, private or EU funding for activities related to capacity building.

### **Positions of European social partners**

#### **ETUC**

ETUC provided the Commission with a **written contribution** following the dedicated hearing on the planned social dialogue communication. ETUC **welcome some of the proposals** such as the social dialogue representative in each DG, the dedicated funding for implementation of autonomous social partner agreements and the visiting programme.

In addition, ETUC outlines **10 key proposals**:

1. **Guarantee respect for trade union prerogatives:** The ETUC demands that the Commission and the Council Presidency ensure a restabilising of a respect of trade unions prerogatives in both the Communication and the Recommendation.
2. **Restoring the right of initiative and the role in the legislative process** guaranteed in the Treaties, dedicated funding for Autonomous Agreements and ensuring that the social partners jointly interpret EU level instruments
3. **Securing a Social Dialogue representative in each DG**
4. **Obligation for a Social Dialogue impact assessment:** EU legislators should be required to state how Social Dialogue has been promoted by their proposals regardless of the field.
5. **A special Representative/Ambassador for Social Dialogue:** The ETUC demands the nomination of a special representative mandated by, and reporting to, the Social Dialogue Committee.
6. **Visiting Programme for Young Future Social Partner Leaders**
7. **Increase capacity building and funding:** ETUC calls for the creation of a dedicated budget line to back Social Partner Agreements (promoting implementation and supporting autonomy and access to capacity building, expertise and training)
8. **Improving the Structures of Social Dialogue:** ETUC calls for a joint review of the formats of the SDC and the TSS, recognising the key role of this play in ensuring exchanges between social partners and the EU institutions.
9. **Quadripartite Statement:** The ETUC demands the introduction of an alert mechanism both for cross-industry and sectoral social dialogue to guarantee the respect of social dialogue and the role of social partners in line with the Quadripartite Statement.
10. **Sectoral Social Dialogue:** ETUC urges the Commission to keep the same direct funding support mechanisms for sectoral social dialogue in accordance with the Article 154 TFEU.

#### **Employers**

Cross-industry employers welcome the proposals to establish **social dialogue coordinators** and to setup a **platform for the promotion and analysis of social partner agreements**.

Regarding the **autonomous social partner agreements**, employers want the Communication to sufficiently addresses the issue of financial support for social partners via direct management while also noting the role that the Commission has in



relation to funds available via shared management, notably the European Social Fund+ (ESF+).

They have reservations on the proposed **clusters** across SSDCs questioning their added value. If clusters would be introduced, they should be on ad-hoc basis, not become too burdensome or have a permanent structure. Employers are strongly opposed to the new project-oriented tool for the **organisation of sectoral social dialogue committee meetings**.

They reiterate their proposal for **two new advisory committees on employment and social protection**. They consider that a similar tripartite forum is needed at EU level with the full participation of national governments and social partners to mirror the national tripartite institutions in charge of employment policies and social protection.

They also argue that introducing these two new committees would also help to reduce the number of dedicated social partner hearings in related areas. In this context, employers are open to consider other changes to improve the functioning / streamline the existing set of advisory committees.

**Input on the approach to the supporting frame will be addressed jointly by the European social partners and communicated to the Commission in due course.**

#### **Joint work programme 2022-2024 of the European cross-industry social partners**

Social partners held six negotiation meetings from September 2021 to March 2022. The meetings were organised and financed by the Commission. Following the endorsement by the respective internal bodies of social partners, the work programme will be signed at the conference on 28 June.

Social partners selected six priorities and agreed to the respective actions:

1. **Telework and right to disconnect:** Instrument: Review and update of the 2002 Autonomous Agreement on Telework to be put forward for adoption in the form of a legally binding agreement implemented via a Directive
2. **Green Transition:** just transition, quality jobs, support enterprises and workers adapting to change, new skills needs, upskilling, redesign of jobs, organising job-to-job transitions and work organisation improvements. Instrument: Framework of Actions
3. **Youth employment:** As a follow-up of the existing Framework of Actions on Youth Employment, a joint seminar will be organised. Instrument: Joint Seminar in view of a joint statement
4. **Work related privacy and surveillance:** According to the autonomous framework agreement on digitalisation, 'digital technology and AI surveillance systems', along with data processing. Instrument: Joint seminar in view of joint guidelines
5. **Improving skills matching in Europe:** The involvement of social partners in skills intelligence (e.g. on skills forecasting, update of occupational profiles, etc.) needs to be developed. Instrument: Seminar followed by joint research project
6. **Capacity building:** Instrument Subgroup of the Social Dialogue Committee. Joint Project to review the effectiveness of the capacity building projects and identification of obstacles to the implementation of the existing autonomous framework agreements; and Integrated Projects to strengthen social dialogue at European and national level (seminars, training, resource centre, translation fund).