

3. The role of the European Trade Union Confederation in delivering the EU Pillar of Social Rights

Liina Carr

The proclamation of the European Pillar of Social Rights (EPSR) was the culmination of a concerted campaign by trade unions across Europe to strengthen ‘social Europe’, at a time when social progress was taking a back seat to economic freedoms.

Although the EPSR in itself does not grant extra rights to working people, the European Trade Union Confederation (ETUC) sees it as an opportunity to reset European Union (EU) priorities and create a framework for improving lives and living standards in a wide range of fields. It has been described as an agenda, ‘a compass¹ for a renewed process of upward convergence towards better working and living conditions in Europe’. It demonstrates that rumours of the death of social Europe have been greatly exaggerated and commits Member States to take action on social rights. In the wake of the coronavirus pandemic, it has proved to be more important than ever in influencing policy responses.

It was former European Commission President, Jean-Claude Juncker, who announced² the EPSR initiative in his 2015 State of the Union address, and European Union leaders proclaimed³ the pillar at the Social Summit in Gothenburg in November 2017. But - even before the social and economic damage inflicted by the Covid pandemic - action was slow to get off the ground. To guarantee that social developments would continue in a positive direction after the arrival of the new Commission team in 2019, the ETUC demanded an action plan⁴ for implementation, which the Commission finally published in 2021 after consultation with the social partners and other stakeholders. It has three headline targets to be reached by 2030: 78% of the population in work; 60% of adults in training every year, and 15 million fewer people at risk of poverty.

¹ https://ec.europa.eu/commission/presscorner/detail/en/IP_17_1007

² https://ec.europa.eu/info/priorities/state-union-speeches/state-union-2015_en

³ https://ec.europa.eu/commission/presscorner/detail/en/IP_17_4643

⁴ <https://www.etuc.org/en/implementing-european-pillar-social-rights>

Implementing the EPSR requires the full range of EU instruments including legislation, policy measures, targets and standards, and integrating social priorities into the European Semester and the Multiannual Financial Framework, together with the United Nations Sustainable Development Goals (SDGs). But legally, the EU shares power with Member States in the field of social affairs, so national governments also have to step up and take responsibility.

The EPSR sets out 20 principles and rights, which the ETUC played a major role in developing, and which are crucial to strengthening the EU's social dimension and promoting the welfare of workers and their families. They are grouped under the headings of equal opportunities and access to the labour market; fair working conditions; and social protection and inclusion. At least 10 of the principles, those relating to social protection, remain the competence of national governments, which means that the social partners at national level play a vital role in pressing for and monitoring progress.

The strengthening of social rights was necessary in response to the shift in recent years towards prioritising economic interests above those of citizens. For example, back in 2007, the European Court of Justice ruled in favour of Latvian building firm Laval and against Swedish trade unions that were taking industrial action to defend agreed wages and conditions. And this was just one of a series of cases where business and the single market were given precedence over the rights of workers. According to the Lisbon Treaty, the EU strives for a “social market economy” and “social progress”. But for a number of years economic growth became the number one priority, especially in the aftermath of the 2008 economic crisis, and the social dimension of European cooperation was pushed onto the back burner.

Under the auspices of the pillar, the ETUC has called for a wide range of initiatives: on trade union and workers' rights, education and training, youth employment, gender equality, health and safety, work-life balance, stronger public services, social protection and pensions, undeclared and insecure work, child protection, minimum income and social dumping. Our demands are based on trade unions' experience of workers' lives and concerns.

Above all, we regard social dialogue, workplace democracy and the right to collective bargaining as key to implementation of the EPSR and achieving upward convergence of living and working conditions across Europe. Guaranteeing trade unions rights and capacity building for collective bargaining should be the foundation of social Europe.

So what progress has been achieved? The existence of the pillar has already facilitated action on job security and pay transparency, work-life balance, a just transition for workers in response to climate change, collective bargaining and minimum wages, protection for cross-border workers, and more, as well as influencing the formulation of post-Covid recovery plans in Member States.

Since the start of the Covid pandemic, the ETUC has insisted on the need for a ‘People’s Recovery’, seizing the opportunity to make changes that benefit working people rather than a headlong rush back to economic growth. The ETUC fought hard to get the pillar included as one of the main criteria for evaluating eligible investments under the Recovery and Resilience Facility⁵ regulation.⁶ Social objectives should be at the heart of the EU’s recovery plans, and social dialogue and consultation with trade unions must be a cornerstone of future action. Unfortunately, ETUC members in only six Member States reported satisfactory involvement in their national recovery and resilience plans (NRRPs).

The EPSR must be at the heart of the next EU Semester⁷ phase 2022. The Annual Sustainable Growth Survey (ASGS) must set rules to align the post-Covid NRRPs to the pillar action plan. It must speed up implementation of the Recommendation on Effective Active Support to Employment (EASE), in close cooperation with social partners. To put active labour market policies into practice and perform outreach strategies for a digital and green transition, Member States need well equipped and funded public employment services (PES). PES also play a key role in the labour market integration of the most vulnerable groups in society: precarious workers, women, migrant and seasonal workers, workers with disabilities and young NEETs (not in education, employment or training).

The social scoreboard introduced under the EPSR to balance the earlier macroeconomic scoreboard and to monitor Member States’ performance must have a binding impact on economic governance. The European Commission relaunched the review of the fiscal rules of the EU economic governance, which started just before the pandemic crises in 2019. The need to suspend the current rules demonstrated clearly that they need to be revised to give member states the possibility invest in public services necessary for the normal functioning of societies. It is time to establish a procedure for measuring social imbalances

⁵ https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_en

⁶ <https://eur-lex.europa.eu/legal-content/BG/TXT/?uri=CELEX:52020PC0408>

⁷ <https://www.etuc.org/en/document/etuc-resolution-recovery-and-social-progress-2022>

and not only macroeconomic ones. The first such proposal was put on the table at the Employment ministers' meeting in October and received a cautiously positive response. The ETUC is working together with the Council, the initiating Member States and with its members to develop this procedure. Most of all, we want to see the full implementation of the social pillar as a foundation of the "social market economy" enshrined in the Treaties.

For the ETUC, the first priority is to preserve jobs and protect workers who have been hardest hit by the pandemic, especially precarious, self-employed and younger workers. Quality jobs should be at the heart of Europe's recovery strategy, and together with the EPSR, the SDGs should be the compass for EU policy-making. NRRPs should prioritise the creation of well-paid jobs, respect for labour rights and employers' social and fiscal obligations, safe working conditions and the right to collective bargaining.

Social resilience requires solid social protection and health systems and investment in education and lifelong learning, not forgetting a 'just transition' towards a green and digital society placing social justice at the heart of action to mitigate climate change. Workers must not pay for the transition with their jobs and livelihoods. Women, who make up 76% of care workers in the EU, have suffered disproportionately during the pandemic, undergoing higher exposure to the virus and levels of stress as well as a rise in domestic violence. The ETUC insisted that recovery plans should acknowledge the gender dimension of the pandemic and combat long-standing inequalities.

Setting fair minimum wages is at the core of Europe's recovery, to end in-work poverty and unacceptable inequalities. Principle 6 of the EPSR declares that "Workers have the right to fair wages that provide for a decent standard of living", but currently some 24 million⁸ working people across Europe are living at risk of poverty. Exploitation cannot be ended by recommendations or examples of best practice, and that is why the ETUC has campaigned for an EU minimum wage directive that should at the same time strengthen collective bargaining and respect existing national trade union negotiating systems. The Commission has now put forward a draft directive⁹, but as it stands, it would still allow minimum wages to be set below the poverty line. The ETUC is calling on Members of the European Parliament (MEPs) to strengthen the law by introducing a wage floor, a 'threshold of decency' - 60% of the median wage and 50% of the average wage of any Member State – to guarantee a decent standard

⁸ <https://www.etuc.org/en/pressrelease/24m-could-get-pay-rise-under-eu-directive>

⁹ https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1968

of living for workers everywhere, to end union busting practices and secure trade union access to the workplace backed up with recognition and representation rights. Another key point, among others, concerns the protection of well-functioning collective bargaining systems that exist in a number of Member States. Furthermore, trade unions will oppose any initiative that harms the role of social partners and that would damage social partners' autonomy and wage-setting in collective bargaining systems.

Principle 5 pledges that “Employment relationships that lead to precarious working conditions shall be prevented”. Yet the digital revolution has seen a massive growth in insecure working arrangements managed through platform companies. Millions of workers are being denied the right to minimum wages, holiday and sick pay and a secure employment contract. False self-employment not only exploits workers but is unfair to the majority of employers who play by the rules, allowing some of the biggest companies in the world to avoid tax and social security contributions which should sustain vital public services.

This year, trade unions have brought a string of successful court cases against platform companies across Europe, but it should not be left up to individuals to claim their rights. Now the European Parliament has backed proposals to prevent companies from forcing workers into false self-employment and the ETUC is demanding EU legislation to establish a rebuttable presumption of employment, shifting the burden of proof onto employers to prove workers are genuinely freelance.

All workers need to know their rights, obligations and working conditions in order to have legal security and avoid exploitation. Adoption of the 2019 Directive on Transparent and Predictable Working Conditions¹⁰ was a direct result of the EPSR, following heavy pressure from the ETUC to broaden the law to cover the largest possible number of workers, although some of the most vulnerable are still left out. Member States have until August 2022 to comply with the directive, and it is important for national union bodies to be able to verify that it is fully and correctly applied.

After much delay and repeated trade union demands, earlier this year the Commission finally published a draft directive on pay transparency.¹¹ The ETUC believes such legislation is the only way to achieve gender pay equality

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019L1152>

¹¹ <https://www.etuc.org/en/pressrelease/pay-transparency-directive-good-principles-inadequate-tools>

(Principle 2), but the proposal does not go far enough. For example, it limits pay audits and action plans to organisations with over 250 employees and allows employers to define which jobs can be compared when it comes to equal pay for work of equal value.

Another outcome of the EPSR was the European Labour Authority (ELA), which was established in July 2019 and started work in October of the same year. The ELA will strengthen workers' rights by helping national authorities to enforce European labour law, combat social dumping and fight abuses in labour mobility, social security, false self-employment and the posting of workers. The authority will also improve the supply of information to workers and employers on their rights and obligations, coordinate and support inspections and facilitate cooperation between Member States. Positive elements¹² of the ELA's mandate include employers and trade unions being able to bring cases to the attention of the authority, competence in the coordination of social security systems, and safeguarding the rights of employers and trade unions to reach collective agreements and of unions to take industrial action. The ELA moved to its permanent seat in Bratislava in October 2021 and should be fully operational by 2024.

The ETUC has been calling for a better work-life balance for years, and Covid-19 has brought this issue into sharp focus for many workers. Principle 9 of the EPSR pledges "the right to suitable leave, flexible working arrangements and access to care services" for parents and people with caring responsibilities. In 2019 the EU adopted a Directive on work-life balance¹³ another product of the EPSR – and once more trade unions have been working to bring about real change in all EU countries, not only through implementation of the legislation but also through collective bargaining. The ETUC published a report as part of the #Rebalance research project, assessing the situation in 10 Member States, and offering unions a toolkit for progress. With more and more people connected digitally to their work because of Covid-19 restrictions, the right to disconnect, backed by MEPs as a fundamental right¹⁴, should also be enshrined in EU law.

The EPSR foresees a rights-based approach to social protection throughout the life-cycle, with equal old-age rights for all and across all generations. In the EU

¹² <https://www.etuc.org/en/pressrelease/agreement-reached-european-labour-authority>

¹³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32019L1158>

¹⁴ <https://www.europarl.europa.eu/news/en/press-room/20210114IPR95618/right-to-disconnect-should-be-an-eu-wide-fundamental-right-meeps-say>

there is a longer life expectancy and a lower birth rate, which results in an aging population. This phenomenon can be a source of further raise in inequalities unless the EU takes action by adopting inclusive and socially sustainable policies to address the effects of such demographic change. Access to adequate and effective pension rights should be guaranteed to all workers and the self-employed, including young people who are trapped in precarious jobs, or insecure careers. Safety nets to avoid poverty must be ensured for everyone in need, together with effective access to health and long-term care. The Covid-19 pandemic has exposed very clearly the gaps and shortcomings¹⁵ of the care systems. The ETUC has focused on Ageing with Dignity¹⁶ and called for the adoption of a comprehensive anti-poverty strategy. More public funding is needed in defiance of the negative narrative surrounding the ‘cost of ageing’, to offer a decent standard of living for young and old. The EU must adopt policies that put people first.

A comprehensive anti-poverty strategy should aim at securing adequate minimum income to people of all ages, allowing them to be fully involved in society and lead a life in dignity. In 2022, the Commission will finally bring forward an initiative on Minimum Income, to combat poverty, but again it will only be in the form of a recommendation: soft law that does not compel Member States to take real action.

On health and safety (Principle 10) we also want to see further action to limit dangerous carcinogens or mutagens in the workplace: nobody should be exposed to life-threatening chemicals at work or die doing their job. In the Commission’s 2022 Work Programme, we welcome a legislative initiative on protecting workers from exposure to asbestos at work. However, there is no proposal for the “Zero fatal accidents vision” and the ETUC will continue to demand zero tolerance of fatal accidents and for the strategy for the prevention of accidents at workplace. In addition, we still need concrete proposals on how to implement the active ageing strategies that European Social Partners agreed upon¹⁷ in the demographic context, in order to optimise opportunities for workers of all ages, to work in good quality, productive and healthy conditions until legal retirement age.

¹⁵ <https://www.etuc.org/sites/default/files/document/file/2020-05/Critical%20aspects%20for%20healthcare%20in%20the%20EU%20COVID%2019.pdf>

¹⁶ <https://www.etuc.org/en/document/etuc-resolution-implementing-epsr-ageing-dignity>

¹⁷ <https://www.etuc.org/sites/default/files/circular/file/2019-07/European%20Social%20Partners%20Autonomous%20Framework%20Agreement%20on%20Active%20Ageing.pdf>

No social progress can be envisaged without tackling the major challenge facing humanity: climate change. The ETUC has been at the forefront of pressure to make society greener and more sustainable, and in particular demanding a just transition for workers including regional solidarity; strong social protection and skills (re)training; robust social dialogue and the creation of high quality jobs. The ETUC was instrumental in securing the €4.8 billion Just Transition Fund to support regions most affected by the change to a carbon-neutral economy, but Europe also needs a coherent strategy that aligns all policy decisions in the same direction.

Turning the European Pillar of Social Rights into tangible social progress is urgent and must be part of a larger post-pandemic transformation to a fair and sustainable society. The action plan needs sufficient funding to achieve its ends and the EU should be able to raise the resources it needs for recovery. The Member States need to set ambitious goals at national level to achieve the headline targets agreed to in the Action Plan.

There is still a great deal more to do to implement the EPSR and bring about the progress people have been waiting for too long. The ETUC has laid out¹⁸ its full expectations on a dedicated website. What Europe needs now is political will, with a high-level commitment to social objectives, to be achieved through setting and monitoring goals and indicators at every level, in co-operation with trade unions and employers.

In the post-pandemic era, the pillar should contribute to a better economic and social governance, which builds sustainable growth and wellbeing for all. Ideally, we want the pillar to be incorporated into the EU treaties, to reorientate the fiscal compass, so that the EU can become a real social market economy as the treaties affirm.

In the meantime, the ETUC is involving its members in reaching out to promote the EPSR and explain the relevance of the action plan to workers across Europe. We want people to take ownership of the next steps so that the European Pillar of Social Rights is no longer an abstract ideal but a practical roadmap to a fairer society.

¹⁸ <https://est1.etuc.org/>