

## A Response to EU Public Consultation on the European Pillar of Social Rights

### *On the social situation and EU social "acquis"*

#### **What do you see as most pressing employment and social priorities?**

Unemployment and a need for so-called 'better' jobs are one of the highest concern of people and national governments, whereas increasing global competition, technological and demographic changes are most evident factors challenging conventional labour regulation and social policies. It should be noted, that economic factors and regulation are the basis for both employment and social priorities. There is a direct causal link between investments (business development) and new (or better) jobs. Employment depends on the business environment regulation, taxation of labour and corporate taxation, cost of establishment, as well as overall macroeconomic situation. Therefore, in order to tackle unemployment, improve employment conditions and social situation, Member States and the EU should focus on measures enhancing business and investment environment to make the Single Market competitive in the global economy.

#### **How can we account for different employment and social situations across Europe?**

Since the establishment of the EU, it comprised of diverse countries in terms of their geographic, economic, political and cultural situations, as well as diverse societal understanding of economic and social policies and public policy tendencies. Furthermore, values and aims of public policies change during the time both in every Member State and in the EU in general. These differences and changes are the common feature of public policy. Divergent perceptions have never been an obstacle for the EU to function rather fostered the competition between the Member States.

#### **Is the EU "acquis" up to date and do you see scope for further EU action?**

The EU 'acquis' played an important role to open markets and promote free movement of workers, services, capital and goods. That implied more competition between undertakings, more choice of employment for people and significantly added to the economic development of Member States. However, new forms of work, technological changes, demographic trends and tough competition the EU and Member States face from the outside of the Single Market require a clear understanding and agreement that the EU should strive for innovation and flexibility in terms of regulatory principles and measures, including in the field of employment and social policies.

Strict labour regulation connecting employment relations with extended social policies are the trend of yesterday. It ignores the future tendencies of businesses (workplaces) and economics and implies the burden for employment, entrepreneurship, as well as prevents Member States from being more competitive and affects the EU attractiveness for investment. In this context, the concept of 'flexicurity' is out-of-date, as practically in current economic situation and labour market the only security for an employee is their qualification (certain education and skills), as the protection measures covered by this concept create burdens for employment for the protected categories of workers and job creation.

Even though the Art 2(3) TEU establishes the socio-economic Union, it does not imply that the way to reach the EU goals requires a rigid protectionist regulation of labour and welfare systems. 'A highly

competitive social market economy' can be achieved by market instruments and removing existing regulatory burdens (including the ones created by the older EU Directives).

The Charter of Fundamental Rights gives enough substantial law ground for social rights, while Member States have judicial systems for individuals to claim or defend these rights. The EC should not involve in further 'interpreting' activity generalizing the principles from the Charter as it is contrary to the individualistic nature of the human (including social) rights.

### ***On the future of work and welfare systems***

#### **What would be the main risks and opportunities linked to technological change, increasing global competition and demographic trends?**

Demographic trends, technological change and increasing global competition are the most transformative trends which should be taken into consideration when discussing the future of work and welfare systems.

Firstly, demographic trends (mainly aging and migration) imply that incumbent state funds based welfare systems (in particular health care and national pensions systems) have to be reconsidered adapting the long-term visions towards them. This could be an opportunity for Member States to encourage individuals to save for retirement and healthcare personally or at least to provide a choice based on personal preferences how to save for retirement and insure for health care.

Secondly, technological change, which is highly interlinked with the necessity of new skills and new ways of work, requires innovative and flexible labour regulation and employment law. Neither the needs of business nor expectations of workers are facilitated by conventional labour regulation principles. On the contrary, it causes a struggle for innovation and competition, and prevents an employee from choosing their preferred work conditions and work-life balance. Therefore, the tendency of technological change is creating an opportunity to personalise employment relations, i.e. to practically implement flexibility in labour regulations.

Thirdly, increasing global competition in practice means that it has never been easier to establish or move your business to one or another country (within the EU and outside the EU) as it is nowadays. That implies that even the most secure labour regulations and employment law will not help if there will be no business employing in the country or the EU. Consequently, global competition is a driver of innovation, better goods, services and choice of jobs for workers. This should be taken as an opportunity to promote skills and qualification, because in the global competitive economy only the qualification of employee is the greatest security. The 'flexicurity' can be ensured only by qualification of the worker and favourable economic environment. The biggest threat would be to deprive workers, Member States and the EU from the benefits of global competition by too strict and complex regulation of business environment and labour.

### ***On the European Pillar of Social Rights***

#### **Are there aspects which are not adequately expressed or covered so far?**

Social issues are different from country to country, e.g. if housing is a massive issue in the UK, France and other Western European countries with high real estate and rent prices, the problem is of a much lower scale in Central-Eastern EU countries. Furthermore, the support needed is usually very individual and should focus on a particular individual in need. Therefore, issues and measures should be identified and taken locally based on a real need rather than centrally decided. Thus, definition of domains, i.e. issues, at the EU level is illogic and inefficient.

In addition, human rights (including social rights) are of the individual nature, i.e. they are assessed case-by-case and individual can invoke Human Rights infringements, e.g. the European Convention of the Human Rights, only if he/she personally and directly has been the victim of a violation of the rights and guarantees (known and applicable principle of the European Court of Human Rights jurisprudence of which the EU claims to observe and adhere). The EC defines the particular domains interpreting the Charter of Fundamental Rights and generalizing the nature of rights and guarantees. That cannot be treated more than the administrative practice the EC plans to follow and observe themselves whenever they act in accordance with the powers conferred on them by the Treaties, however, the only valid and binding interpretation of the rights granted for individuals and obligations imposed to the countries are by the Court of Justice of the European Union or by the European Court of Human Rights as far as it concerns European Convention on Human Rights.

The EU already has functioning relevant directives and regulations in the main domains identified. Thus, the EC should focus on enforcement of existing laws, rather than involving in the fields with limited or no power to act at all putting themselves in the dubious and allegedly incorrect interpretations of the human rights and guarantees.

It has to be admitted that primary problems of the euro area are of a different nature, i.e. fiscal, financial and economic. Labour regulation and social policies can either deepen them or contribute partially to mitigating them but are not in a place to solve them or ensure a particular convergence for the euro area, if that were an ultimate goal.

Active support of employment should be the key target of the EU and Member States. This support should be in line with economic and market principles, whereas the EC definition of this domain ignores them.

Employment is driven by stable fiscal and economic situation, sound business and investment environment. Therefore, looking at the trend of the increasing global competition the Union should focus on measures improving the competitiveness of the EU in the global market. Furthermore, the EU is in the best position (taken into consideration the subsidiarity principle) to take action for that. This is an essential condition to ensure that business remains and establishes in the Single Market, i.e. that there will be work within the EU Member States. Fostering the free movement rules further and eliminating burdens to enter the market and trade, bureaucratic obstacles for (small and medium) business establish as well as promoting entrepreneurship and self-employment by simplifying regulation, tax administration, etc. are the measures to take.