

CONSULTATION OF SOCIAL PARTNERS ON THE REVIEW OF THE EU SECTORAL SOCIAL DIALOGUE

– UNI Europa Feedback –

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Introduction

This reply is based on the input of our side in the sectoral social dialogues in which UNI Europa, the European services workers union, is engaged.

Before addressing the questions put forward in detail, we would like to elaborate on five overarching aspects:

a) Closest to workplace: European sectoral social dialogue is distinct from cross-sectoral social dialogue. Trade unions and employers at sectoral level, are the closest to the workplace. They have the most direct knowledge of workplace needs across an industry and are essential to implement public policies and legislation effectively. Sectoral social partners are thus in the best position to provide input in shaping relevant legal and policy frameworks. At the same time, their autonomous regulatory role through collective bargaining complements and supplements public action. Their specific role is not limited to that of social partners in a narrow sense; trade unions and employers'/business associations are also the two sides of industry with a broad economic remit that goes beyond the "social dimension" of the single market. The two functions are closely linked. We recommend therefore that the Commission avoids too sharp a distinction and develops a common approach covering both roles in the context of EU policymaking.

b) Social Partner Agreements: Considering the upcoming European court ruling and the policy shift by the Commission since 2012, a new framework for negotiating social partner agreements is urgently needed. Formally, such agreements can be implemented in two ways, via EU legislation and autonomously, i.e. essentially by national collective agreements. Since both routes were not viable for the hairdressing social partner agreement, UNI Europa, CoiffureEU and the Commission developed a further option. At its core is a jointly agreed implementation plan drawing on the social partners' self-regulatory competences and particularly non-legislative EU action. The downside is that this is a more complex and resource intensive approach, especially for the European social partners. The advantage is that it enhances networking across member states as well as across several Commission services and EU agencies – it results in more traction and permanence for European sectoral social dialogue.

c) Strengthening Collective Bargaining and the Capacity of Social Partners: Social Europe requires strong social partners and strong collective bargaining. The OECD Report "Negotiating Our Way Up" (2019) emphasised the importance of sectoral collective bargaining for prosperity and stability. In its proposal on a minimum wage directive, the Commission sets out a target of 70% collective bargaining coverage. The reality is bleaker – in particular in Central and Eastern Europe but also in other parts, not least due to the rise of casual and non-standard employment relationships. Accordingly, capacity building of

sectoral social partners and promoting sectoral collective bargaining should be a top EU priority, through policy and legislative action as well as financial support.

Taking inspirations from the hairdressing agreement and the US President's "Task Force on Worker Organizing and Empowerment", the Commission should establish a task force on strengthening collective bargaining and the capacity of social partners. The task force should bring together the Commission as well as cross-sectoral and sectoral social partners at both European and national level. It should draw up proposals setting out action for immediate implementation that the Commission can take itself (e.g. public procurement and state aid criteria). This would complement initiatives under the European Pillar of Social Rights.

In this year's social dialogue budget line, some funding was dedicated to capacity building. The Commission should consider establishing a separate budget line focusing on capacity building for social partners in the member countries and on increasing collective bargaining coverage. One – equal – option to joint projects should be organising projects solely for either trade unions or employers' associations. The reasoning is that the capacity of some of these is still very limited so that joint activities would not be useful at such a stage.

d) Joint cooperation between sectoral social dialogues: Today's changes, not least in the context of the twin transition, follow similar patterns across sectors and blur sector boundaries. If appropriate, sectoral social dialogues cooperate already today, between two or more sectors. On an informal level, the social partners from the services sectors have also cooperated regularly. One example is the joint statement "Strengthening sectoral social dialogue in the services industry" (January 2021) that also fed into the Nahles report. Without subtracting from the established sectoral social dialogues, the Commission should facilitate and promote such cooperation. In this regard, we welcome the new industrial strategy and the creation of 14 eco-systems – the concerned sectoral social dialogues should be closely linked into the new approach. A question that the Commission still needs to answer concerns its approach towards sectors not covered by an eco-system.

e) Early Involvement of Social partners in EU Policymaking: As we set out in a), sectoral social partners have a critical role in contributing to the design and implementation of EU policies regarding the "social dimension" but also the single market generally. Our general assessment is that the involvement of the sectoral social partners tends to be too late and too marginal, especially insofar directorates general beyond DG Employment are concerned. We very much share the proposal by Andrea Nahles to have a dedicated unit in each DG responsible for social dialogue and social affairs as is the case already for some sectors.

The responsible Directorate General in the Commission should involve the sectoral social partners in the EU's policymaking process from the very start. They should already consult social partners before the drafting of a policy proposal begins, both individually and through the sectoral social dialogue committees. In addition, trade unions, as one of the two sides of industry, should generally be invited to consultation meetings with industry. We suggest that the Commission enters a dialogue with the sectoral social partners on how such an approach can best be organised. The Commission staff working document "On the functioning and potential of European sectoral social dialogue" (2010) might provide some food for thought, in particular regarding social partner involvement in the impact assessment procedure and why the approach has not sufficiently succeeded.

Please also note:

- European Trade Union Federations. *Summary following the Meeting of the European Trade Union Federations with Ms Andrea Nahles*. 29 September 2020.
- *Joint Statement by Services Social Partners: Strengthening sectoral social dialogue in the services industry – The all-important role of social partners in building a resilient Europe*. 27 January 2021.

1 In your view, how does sectoral social dialogue perform at EU level at present? Please identify three strengths and three areas for improvement, and explain them. Where do you see the value-added of sectoral social dialogue?

European sectoral social dialogue is both a tool and process of good democratic governance, as well as a forum for information, consultation, and negotiations of EU social minimum standards and for upholding workers' and trade union rights at national level. A clear strength of sectoral social dialogue is that social partners can meet and network as well as exchange information on the different sectoral situations in different countries. Such an exchange enables the reinforcement of industrial relations at sectoral level across Europe. Sectoral social dialogue primarily functions as a forum for exchange between employers and trade unions of good industrial relations practices at the national and sectoral levels, enabling social partners in other countries to learn from those experiences and carry them forward in their own work.

As UNI Europa we call upon the Commission to ascertain clear, transparent processes and criteria in consultation of social partners (both cross-sectoral and sectoral levels) on bringing forward social partner agreements to Council for adoption (TFEU art.155.2).

One strength identified is the continuation of the sectoral social dialogue meetings amidst the pandemic. This has led to numerous joint statements and declarations between social partners arguing for a strengthening of collective bargaining and addressing occupational health and safety concerns.

Another strength identified is that in sectors where social partners are representative and have mandates to sign agreements, those modalities have been maintained and were not put into question.

The shift to online meetings has meant that the informal exchanges which occurred in the breaks, before and after meetings have not been able to take place. These have been crucial for the development of social partner projects and understanding the needs of one's counterparts.

The areas of improvement identified are firstly the request for the EU Commission to ascertain clear, transparent processes and criteria in consultation of social partners (both cross-sectoral and sectoral levels) on bringing forward social partner agreements to Council for adoption (TFEU art.155.2).

Second, the Commission should adopt a more active role and to support further the functioning of sectoral social dialogue committees by encouraging the adoption of joint texts and common declarations as well as moving beyond a mere transfer of information on European initiatives.

Third, there are some sectoral social dialogue committees where the social partners are not comprehensively representative (scope of Social Dialogue Committees) and/or do not hold mandates to sign agreements. The EU Commission should facilitate as comprehensive a representation as possible as well as encourage non-mandated social partners to adopt full mandates (formal and informal) to sign agreements.

2 What are the main challenges that sectoral social dialogues faces at present (structurally and beyond the Covid-19 crisis)? What do you think are the main challenges that sectoral social dialogue will be confronted with in the years to come? Do you consider the current form of EU sectoral social dialogue as fit for meeting these challenges?

Sectoral social dialogues anticipate change in their respective industries through the Work Programmes adopted at their level. There are of course general industrial relations trends, notably digitalisation and new forms of work, that can be addressed at sectoral social

dialogue level either in complement or additionally to the identified topics addressed under cross-sectoral social dialogue level.

Each identified sector would have to address those from a sectoral perspective. The following list is non-exhaustive but whether sector social dialogues pick those up will depend on the autonomous willingness of the social partners at sectoral level to do so. Enhancing the representativity of the sectoral social dialogues can contribute in that sense for the sectoral social dialogues to pick up some of these topics where relevant: Artificial intelligence; new forms of work such as platforms; remote working modalities and collective bargaining around this; work-life balance enhancement measures; skills and competences to address industrial change in the sectors; occupational health and safety; minimum social protection for all types of work; just and fair environmental transition, etc.

A clear challenge identified across UNI Europa sectors in sectoral social dialogue is weak social partner representation both on the employer and trade union sides in several parts of Europe. Where these institutions are weak or not established, this limits the degree of representation at European sectoral social dialogue level.

3 Can the contribution of EU sectoral social dialogue to EU policy-making be improved? If yes, please explain how. Please give your opinion on the overall involvement of sectoral social partners in EU policy-making in the past 5 years. What have been social partner achievements in terms of shaping EU policies? What challenges have you encountered? What needs to be done to address these challenges in the future - by social partners and/or the Commission, as applicable? Please support your opinion with concrete examples.

There should be early involvement of social partners (trade unions specifically) in European cross sectoral and sectoral initiatives in a constructive dialogue framework.

This implies a clearer definition of what is a social partner consultation as well as an extension of the narrowly defined social policy (e.g. single market). We saw on predictable working conditions and platform workers that the EU Commission consults other stakeholders than social partners. Another negative example was the discussion regarding the possible introduction of an e-Services card, even against the express will of sectoral social partners in the concerned industries. The Commission, throughout its services, needs to recognise and respect the special and enhanced role of social partners as defined in the EU Treaties and by the member states – with regard to social policy and beyond. The EU Commission and its services should make it standard practice to consult first social partners before applying a more broader stakeholder approach.

UNI Europa recommends raising the importance of national level sectoral (and cross-sectoral) social partners in the adoption of the national recovery plans. Social dialogue has a crucial role to play in this instance and it should be promoted. It is important to take stock of the fundamental discussion around the enforcement of European social dialogue at sectoral level and address more pressing issues such as Covid-19 and a fair economic recovery. UNI Europa would like to mention the need to address workplace restructuring in a social dialogue framework (horizontal and sectoral) also in the parallel ETUC discussions. UNI Europa recommends the full involvement of the social partners in the implementation of the recovery plan(s) both at European and national levels (conclusion of tripartite agreements).

4 Can the outcomes and impact of EU sectoral social dialogue be strengthened? If yes, please explain how. Please give your opinion on the outcomes achieved in EU sectoral social dialogue – in terms of the volume, their implementation and impact on improving working conditions, occupational health and safety and other challenges at the workplace (local and national level). What challenges have you encountered, in particular in negotiating and concluding more and better social partner agreements? How do you plan to address them in the future? Please support your opinion with concrete examples.

The central point is capacity-building for sectoral (and cross-sectoral) social dialogue notably in Central and Eastern Europe.

At European level, this calls for a joint effort by the European social partners and the Commission to ensure that national social partners have the potential and mandate to negotiate binding agreements and implement European-level agreements and other social dialogue outcomes. Such an endeavour would enable European (sectoral) social dialogues to have a lasting and significant effect at national level (with actual implementation). It is an important part of capacity-building and implementation of European social dialogue outcomes (sectoral and cross-industry). At the same time, it would enhance the capacity of sectoral social dialogue committees to develop work programmes that address current and future challenges, not least regarding structural change.

Another recommendation would be for the EU Commission to look at legislative and other barriers at Member State level that hinder or undermine social dialogue at workplace, at sectoral and cross-sectoral level, as well as the autonomy of social partners.

5 Can the organisation of sectoral social dialogue be modernised and aligned to structural trends and new economic developments and contribute to a future-proof sectoral social dialogue? If yes, please explain how. *In your opinion, is the current structure of committees (SSDC) efficient and relevant in view of the current economic model and labour market? Is it flexible enough to adapt to new trends/changes and future proof? In what ways would you reform the set-up? How would you adapt the working methods and tools?*

UNI Europa would like to reiterate the pertinence of sectoral social dialogues as well as their relevance in addressing social policy matters in their respective industries. It is important to have established sectoral social dialogue committees and in sufficient numbers so that social partners at European level can focus respectively on their industries' specificities and work in a practical approach towards tangible social dialogue outcomes.

We would also like to recommend to the EU Commission to seek respectively in an anticipation of change framework to facilitate the holding of joint sectoral social dialogue committee meetings on issues that have joint relevance for separate social dialogue committees. In any case, UNI Europa urges the EU Commission to not decrease the number of sectoral social dialogue committees as well as ensuring sufficient resources (languages, interpretation, translation of joint texts) and support are at the disposal of the social partners at European level.

6 In your view, how the Commission should organise its support for sectoral social dialogue to achieve the above objectives? In your opinion, is the current system of, in principle, equal support to all Committees appropriate or should it be replaced by a system of a more targeted support? In case of the latter, which criteria should be used for a possible more targeted support?

Political and financial support towards Sectoral Social Dialogue is essential.

UNI Europa regularly reviews its role and impact both at European and national levels, ensuring that we remain representative and legitimate social partners with the knowledge, technical capacity and timely access to relevant information to participate; the political willingness and commitment to engage in social dialogue; respect for the fundamental rights of autonomy for the social partners, freedom of association and collective bargaining, which remain at the core of industrial relations, and an enabling legal and institutional framework to support social dialogue processes with well-functioning institutions.

Furthermore, considering the overlapping role of business as commercial lobbyists and social partners, we strongly recommend to condition clearance of companies in EU transparency registry to a real and effective commitment to sectoral social dialogue including collective bargaining both at European and national levels. Financial resources should reflect an expansive role for representative social partners and should be allocated with due consideration of such role.

UNI Europa recommends the EU Commission to actively promote and support sectoral social dialogue and autonomous collective bargaining by making it mandatory, especially in the context of public procurement and European funding programs. This also implies securing sufficient resources at the level of the EU Commission to service and support the Sectoral Social Dialogue Committees.

Specific sectoral concerns

The fragmentation of industrial relations at national levels has created imbalances at the EU level and an inability to derive binding decisions. It is necessary to not only build social partner capacity through EU-funded projects but to also strengthen the applicability of sectoral collective agreements at national level so that the EU sectoral social dialogue committees gain renewed relevance in light of new industrial challenges.

Another issue necessitating attention is that the project results from EU-financed projects often only receive marginal attention from the EU Commission in policymaking. In the Industrial Cleaning, Private Security and Contract Catering Social Dialogue Committees, social partners have jointly created Best Value Guides for private clients and public authorities. These guides only receive a small mention in the EU Commission's document on public procurement and this even though these sectors and its workers depend on public procurement. For that reason, it would be necessary to have a Social Dialogue contact point within each DG of the EU Commission.

In the operation of the different sectoral social dialogue committees, there is a mismatch between the countries attending the committee meetings between the employers and trade union delegations respectively.

Another identified challenge is the lack of genuine dialogue as there is no real discussion on difficult subjects, which are avoided. Important topics that ought to be discussed are unfortunately avoided such as the future world of work, artificial intelligence etc.