



European Federation
of Building
and Woodworkers



EUROPEAN PUBLIC SERVICE UNION



EUROPEAN TRADE UNION



**Joint Position of the European Trade Union Federations:
EAEA, EFBWW, EFFAT, EPSU, ETF, ETUCE, EUROCOP, IndustriAll and UNI Europa**

**A supporting framework with clear rules for EU Social Partner
Agreements and the protection of the right to collectively bargain at
national level, are two sides of the same coin**

15 March 2022

One of the most important expressions of European social dialogue are social partner agreements. Whilst acknowledging that the European Commission's role as the guardian of the Treaty includes ensuring that social partner agreements are in line with the law, we stress that the social partners are those who know best what is appropriate and beneficial for their sector in terms of social matters. The European Commission has an obligation to respect the autonomy of social dialogue. Under the condition of a joint request by recognised and representative European social partners, the European Commission should facilitate the conclusion and implementation of their agreements in line with Art. 155 TFEU. As recommended by Andrea Nahles in her report and following the ETUC Resolution on securing the right of initiative¹, the ETUC and

¹<https://www.etuc.org/system/files/document/file2021-09/EN-Adopted-ETUC%20Resolution%20on%20securing%20the%20right%20of%20initiative%20.pdf>

European Trade Union Federations request urgent action to establish a clear and functioning process, in close consultation of social partners, for Social Partner Agreements as part of the European Commission Review of Sectoral Social Dialogue.

1. In the context of the European Commission's review of social dialogue, there are two interrelated priorities:
 - a. At EU level, representative and mandated social partners have a right to conclude social partner agreements, in full autonomy, with a view to those agreements becoming legally binding in light of TFEU Art. 155.2
 - b. At national level, the right to collective bargaining must be protected and supported.
2. Whilst at national level, there is no question that collective bargaining is part of social dialogue, at EU level, collective bargaining is increasingly framed as if it was outside the EU social dialogue. The Recommendation on Social Dialogue must therefore support sectoral and cross-sectoral collective bargaining both at national and EU levels.
3. A meaningful EU social dialogue must rest on a set of clear rules and process that upholds the right of cross-sector and sectoral social partners to shape EU minimum social and labour standards through agreements with erga omnes effects.
4. Those rules must be the same for cross-sector and sector levels of social dialogue.
5. The two criteria against which the European Commission will decide on Social Partner Agreements, based on TFEU Article 155.2, are the legality of the agreement and the representativity of the signatory social partners as laid down in 5 social dialogue Communications. The Commission must provide clarity over the process upon which it informs its decision: accompanying information requirements such as representativeness studies ought to be known to the social partners. The European Commission should not invent new requirements as it sees fit.
6. A maximum time limit (of 3 months) must be set on the European Commission to forward a signed Social Partner Agreement to the Council for its implementing decision. Past experience has shown that the process can take up to two years. Before taking a decision, the European Commission will inform and discuss with the social partners concerned whether the criteria of legality and representativeness have been met. The social partners have a right to amend their agreement to address any issues raised by the European Commission.
7. European social partners' mandates to take part in a cross-sector and sectoral social dialogue committees must acknowledge the possibility to conclude social partner agreements in full autonomy.
8. The European Commission will provide logistical and financial support to facilitate the negotiations of social partner agreements.
9. The best way to provide legal certainty is to enshrine the above requirements and processes in a Decision merging together the social dialogue Communications (1996, 1998, 2002, 2004; 2010) and include the modalities of sectoral social dialogue committees in line with the 1998 Decision on the establishment of sectoral social dialogue committees.