

17.05.2017

Memo: European Pillar of Social Rights - 2

I. Up to December 2016 the European Commission held a **public consultation** on its proposal for a European Pillar of Social Rights (see Memo from 22.07.2016). CEC has contributed to this consultation via its CEC TRG ESI.

On Wednesday, 26 April 2017, the European Commission published the proposal for a European Pillar of Social Rights (EPSRs), which consists of **several documents**:

- **Communication** on “Establishing a European Pillar of Social Rights”; COM(2017) 250 final);
- Commission **Recommendation** of 26.04.2017 on the European Pillar of Social Rights; C(2017) 2600 final;
- **Proposal for a Interinstitutional Proclamation** on the European Pillar of Social Rights; COM(2017) 251 final;
- Commission Staff Working Document – Establishing a European Pillar of Social Rights; SWD(2017) 201 final;
- Commission Staff Working Document – Report of the public consultation; SWD(2017) 206 final.

These documents are accompanied by others which relate to specific aspects of the proposed EPSRs:

- Commission Staff Working Document – **Social Scoreboard**; SWD(2017) 200 final;
- Commission Staff Working Document – on the implementation of the 2008 Commission Recommendation on the **active inclusion** of people excluded from the labour market; SWD(2017) 257 final;
- Commission Staff Working Document – Taking stock of the 2013 Recommendation on “Investing in **children**: breaking the cycle of disadvantage”; SWD(2017) 258 final.¹

Furthermore the proposed EPSRs is followed by specific proposals related to its content, some with legislative, others with non-legislative character, which can i.a. be understood as an example of how the EPSRs shall be implemented in the future:

- Communication on an Initiative to support **work-life balance for working parents and carers**; COM(2017) 252 final; together with the proposal for a

¹ These documents can also be found here:

<http://ec.europa.eu/social/main.jsp?pager.offset=0&catId=89&langId=en&newsId=2786&tableName=news&moreDocuments=yes> (latest view: 11.5.2017)

Directive of the EP and of the Council on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, COM(2017) 253 final.

- Two social partner consultations: one on modernising the rules on labour contracts, the so-called Written Statement, to revise the Directive (91/533/EEC); one on **access to social protection** for people in all forms of employment (C(2017)2610 final) , having in mind the change in the world of labour with more and more flexible working arrangements.
- An Interpretative Communication concerning certain aspects of the **organisation of working time**; C(2017)2601 final.²

Finally, the proposal on the EPSRs has to be seen in a much broader context: On 1 March 2017 President Jean-Claude Juncker presented the White Paper on the Future of Europe.³ The proposal for EPSRs is complemented with a **reflection paper on the Social Dimension of Europe**, and how to develop it until 2025, presenting three possible scenarios.⁴

II.

1. The reasoning for the need of an EPSRs has not changed compared with the presentation for the public consultation.

1.1. The Commission is convinced that “[E]conomic and social progress are intertwined”⁵.

The Communication⁶ highlights **the joint, but different responsibilities** to achieve an inclusive and fairer Union, referring to the local, regional and national authorities, but also to social partners and civil society. The role of the EU is described as “setting the framework, giving the direction and establishing a level-playing field”,⁷ taking into account the different responsibilities, but also situations in Member States and regions as well as the variety of traditions and cultures in social policies.

1.2. The EPSRs is still related primarily to the **euro-zone**. A “smooth functioning of the Economic and Monetary Union” demands a “convergence of performances between Member States” also regarding labour markets and social protection levels.⁸ But all other Member States are invited to join.

1.3. The EPSRs collects and structures the existing EU law, includes international legislation and agreements, and proposes to introduce new rights and principles, arguing with the societal, technological and economic changes and developments. Although the primary responsibility is with the national governments the EU has

² These documents can easily be found under: http://europa.eu/rapid/press-release_IP-17-1006_en.htm (latest view: 11.05.2017)

³ See: https://ec.europa.eu/commission/white-paper-future-europe-reflections-and-scenarios-eu27_en (latest view: 11.05.2017)

⁴ See: https://ec.europa.eu/commission/publications/reflection-paper-social-dimension-europe_en (latest view: 11.05.2017)

⁵ Commission Recommendation C(2017)2600 final, Nr 11.

⁶ COM(2017) 250 final.

⁷ COM(2017) 250 final, p2.

⁸ COM(2017) 250 final, p5.

responsibilities based on the EU-Treaties and it has instruments to put the EPSRs forward by social dialogue, by the European Semester, giving policy guidance (e.g.: Country Specific Recommendations) and financial support by its funds.

Therefore, the EPSRs is the framework for guiding future action, and its rights and principles have to be translated “into dedicated **action** and/or separate **legislation**”⁹ and will stimulate reforms in the national states. It will shape the work programme of the Commission in the coming years in this area.

1.4. The EPSRs has been decided by the European Commission as a **Recommendation** on 26 April 2017 and “delivers the framework for future actions by the Commission”¹⁰. In this regard it also defines the work programme in this field for the coming years.

But the ultimate aim is to achieve an **Interinstitutional Proclamation** of the EPSRs by the Commission, the European Parliament and the Council. The model is the EU Charter of Fundamental Rights, which was solemnly proclaimed on 07.12.2000 by the three EU institutions, and was enshrined later into the EU Treaties.

With the involvement and the discussion in the European Parliament and the Council as the representation of the EU Member States CEC and its member churches can seek to have the opportunity to contribute to this discussion and to bring to bear their specific expertise and experience.

2.

The EPSRs is still developed into **three chapters** and **20 principles or rights**:

Chapt. I: Equal opportunities and access to the labour market (1-4);

Chapt. II: Fair working conditions (5-10);

Chapt. III: Social protection and inclusion (11-20).¹¹

In the consultation version the chapt. I consisted of 6 principles, and the chapt. II of 4. Now it is the exact opposite, giving more emphasis on strengthening working conditions.

The structure of each proposal for a principle is always the same:

(1) It explains the Union acquis, which is the Charter of Fundamental Rights, Articles in the Treaties and existing measures, like Directives, which have to be translated into national legislation by the Member States, or Recommendations, which is understood as political guidance. (2) It presents the scope and changes introduced by the EPSRs; and (3) it envisages ways of implementation via the Member States, social dialogue (on national and/or European level), and recent and ongoing initiatives at EU level.

Some observations

2.1. The EPSRs highlights in chapt. I the significance of “gender equality” (2. prin.) and “equal opportunities” (3. prin.). As CEC has proposed in the public consultation **gender equality** and **work-life balance** are now separated principles. “Gender equality” shall

⁹ COM(2017) 250 final, p7.

¹⁰ COM(2017) 250 final, p8.

¹¹ The document unfolding the Pillar is: Commission Staff Working Document – Establishing a European Pillar of Social Rights; SWD(2017) 201 final.

be implemented in all areas, like participation in the labour market, terms and condition of employment, career progression, but also in overcoming the gender pay gap. “Equal opportunities” focus on equal treatment and against any kind of discrimination e.g. by religion or belief¹², and this shall expand to “social protection, including social security and healthcare; education”¹³ and other areas of social protection. For the implementation of this principle the Commission refers explicitly to “intermediary players such as NGOs” as partners to fight discrimination.¹⁴

2.2. The EPSRs addresses much more the **changing world of work** than before. With the principles “Secure and adaptable employment” (5. prin.) and “social protection” (12. prin.) it seeks to take the new forms of employment into account and to fight new forms of precariousness. All workers, as well as under similar conditions self-employed, shall have the right to **adequate social protection**. Therefore, the Commission launches two consultations with the social partners on EU-level about minimum standards of written information to new employees (“written statement Directive”) and about “access to social protection”.¹⁵

2.3. The EPSRs contains a differentiated principle on “**wages**” (6. prin.), which aims at “fair wages” to provide a “decent standard of living” and the introduction of “adequate minimum wages”, i.a. to prevent in-work poverty. It also demands that the decisions about wages are made in “a transparent and predictable way”. The Commission urges the Member States to sign the ILO convention on minimum wage fixing and the ILO convention on the promotion of collective bargaining. Of course it refers to the implementation to the social partners, but underlines also the role of the European Semester and the Country Specific Recommendations.¹⁶

It also contains a principle on “**unemployment benefits**” (13. prin.), which seeks to establish the right “to adequate activation support from public employment services”, but asks also for “adequate unemployment benefits of reasonable duration”. The document recognizes that this objective is first and foremost in the competence of the Member States, but regarding the Single Market as a European labour market, it argues to extend the minimum period to search a job in another Member State from three to six months for an unemployed person. With the European Network of Employment Services the active support to job seekers could be improved by reflecting best practice models.¹⁷

The EPSRs also proposes a principle on “**minimum income**” (14. prin.) for “those lacking sufficient resources” and giving them the “right to adequate minimum income benefits ensuring a life of dignity at all stages of life, and effective access to enabling goods and services”. This principle is as well first of all related to the competences of the

¹² Commission Staff Working Document – Establishing a European Pillar of Social Rights; SWD(2017) 201 final, p.14.

¹³ p.16.

¹⁴ p.16.

¹⁵ Both consultation documents are public and will be shared.

¹⁶ Commission Staff Working Document – Establishing a European Pillar of Social Rights; SWD(2017) 201 final, p.28.

¹⁷ p 54.

Member States. Nevertheless, political guidance via the European Semester and the Open Method of Coordination¹⁸ could promote this principle at EU-level.¹⁹

At the end the EPSRs expresses the “**right to access essential services of good quality**”, which should be “available for those in need” (20. prin.). The Commission refers to different initiatives which it has taken already forward, like for electronic communication, energy and water, but it highlights also the proposal for a European Accessibility Act, which would have a more general outline.²⁰

This integrated view of these four principles proves in my view that the Commission indeed seeks to establish a more comprehensive approach and description of the so-called Social Europe. If these principles would be implemented a European social protection floor would become visible and – probably – reliable; an upward convergence could be achieved, having in mind those minimum standards must not mean the downgrading of higher standards. But the detailed analysis also shows quite plainly that the EPSRs will only function if the Member States agree and decide to take their responsibility into the direction, outlined by the EPSRs.

A role of churches and church related organisations might therefore be to engage in a discussion in the Member States with the governments about the reasonable handling of this proposal.

2.4. Comparing the public consultation proposal and the now presented proposal it is also interesting that “**childcare and support to children**” has received much more emphasis than before. As the 11. prin. it is now the first, opening the third chapter on “social protection and inclusion”. It strives for “affordable early childhood education and care for good quality” as well as “protection from poverty”, especially for those from “disadvantaged backgrounds”. Several initiatives at the EU level are related to this principle.²¹ Finally the Commission announces an initiative on a **Child Guarantee**, following the model of the Youth Guarantee. The idea is to adopt child well-being indicators and to establish a roadmap to pursue the realisation of those indicators. EU-funds shall be accessible for the implementation of the related policies. Concretely the guarantee shall be developed as a “childcare guarantee”.²²

As churches have a particular theological and socio-ethical interest in the protection of children this emphasis might be welcomed expressively by the churches. And it might be a specific task of the churches to support this idea and policy towards the EU institutions but also the national governments. This idea relates also to the objective to fight poverty and social exclusion as it was defined in the Europe 2020 strategy, but defines it even more prominently and particularly in relation to the most vulnerable in our societies – the children.

¹⁸ Which is a particular instrument of exchange of good practice between the delegates of the EU Member States in the Social Protection Committee.

¹⁹ p. 56f.

²⁰ p. 76f.

²¹ p. 47.

²² Commission Staff Working Document – Taking stock of the 2013 Recommendation on “Investing in children: breaking the cycle of disadvantage”; SWD(2017) 258 final, p. 27f.+35.

2.5. Finally, I would like to highlight that the proposal has stuck to the philosophy to have 10 principles related to **labour** and 10 principles related to **social protection**, going far beyond labour and employment, including items like “old-age income and pensions”, “health care”, “inclusion of people with disabilities”, “long-term care” and “housing and assistance for the homeless”. This is after all somehow courageous because the Member States have criticised especially this chapter very much in the public consultation, because it seems not take into account the principle of subsidiarity and the competences of the national states.

This observation might be an incentive for churches in Europe to discuss which role they perceive for the European level in the future of social policy and social protection. Having in mind that many systems of welfare state and how it established social protection are based also in religious, Christian and even Christian confessional tradition, which could be proved e.g. for societies which were more shaped by Lutheran or by Protestant Reformed theology. We will come back to this point under 5.

3.

With the EPSRs the Commission presented the Communication on an Initiative to support **work-life balance for working parents and carers**; COM(2017) 252 final; together with the proposal for a Directive of the EP and of the Council on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, COM(2017) 253 final.

It seeks to strengthen the work-life balance rights of women and men. It proposes to improve adequate leave arrangements, especially e.g. by supporting the paternity leave, to enhance flexible working arrangements, to focus on childcare as well as long-term care, and to assist by financial means.

An overview about the detailed provisions of the proposed Directive is presented by the Commission.²³

4.

Along with the EPSRs the Commission proposes to introduce and establish a so-called **Social Scoreboard** “to screen employment and social performances of participating Member States” and to ensure the monitoring of “successful outcomes” of the EPSRs policies.²⁴

The instrument of a scoreboard is very well known in the execution of the Annual European Semester Cycle for economic governance, which works with a “macroeconomic imbalance procedure scoreboard”, taking already long-term unemployment and youth unemployment into account.

The proposed societal scoreboard is organised around the three chapters of the EPSRs, but emphasising more the two first chapters on labour and employment than the third about social protection. It foresees 12 areas to measure social progress, collecting data from Eurostat – the EU statistic Agency – and OECD.

²³ See: The General Fact sheet W-L Balance.pdf.

²⁴ Commission Staff Working Document – Social Scoreboard; SWD(2017) 200 final, p.2.

The results shall be used to strengthen the considerations about the national developments within the European Semester and will feed into the annual Joint Employment Report, which is in the autumn together with the Annual Growth Survey the starting point for the next European Semester.

The relation to the **Joint Employment Report** reveals that the emphasis of the societal scoreboard – different from the EPSRs – is on the labour and employment topic. Nevertheless, the introduction of this scoreboard might become a real added value as it will present every year the employment and social performance of participating Member States, which might improve the European debate and stimulate more learning from one another.

For the work of the CEC TRG ESI on **social inequality** the Social Scoreboard 2017 entails interesting information on inequality, which is the 3rd area of the scoreboard. Accordingly inequality has “increased slightly” since 2010, although the performance is very differently between the Member States.²⁵

5.

Finally, the EPSRs proposal is accompanied by a **reflection paper on the social dimension of Europe** and its development until 2025.²⁶

The reflection paper seeks to open a discussion on **two main questions**:

- “What challenges should our countries tackle together?”
- What added value can the EU level instruments provide in this struggle?”²⁷

The paper gives first a very short introduction about “Europe’s social dimension”. It points out that after overcoming the crisis it is now time to “draw lessons” and to develop a “longer-term perspective”.

It then describes today’s social reality under the headlines of the divergences between countries and regions e.g. in living standards, of differences in employment development as well as the traditional social protection systems. Lessons which could be drawn from the crisis are that those countries were less affected, where business was able to create new jobs, where the social protection system was well established, especially with well-functioning unemployment benefits, where minimum income schemes were implemented and social partners were involved in establishing the reforms which were needed.²⁸

The reflection paper thirdly identifies the “driver of change” by 2025, which is already well known: the demographic change, increasing diversity and complexity in our societies, the emergence of a new world of work by digitalisation, globalisation and the growth of the service sector, underpinning the need for modernisation of the European welfare systems.

²⁵ Social Scoreboard 2017, p.6f.

²⁶ See: https://ec.europa.eu/commission/publications/reflection-paper-social-dimension-europe_en. (latest view: 15.05.2017)

²⁷ Reflection paper on the social dimension of Europe, p.32.

²⁸ p.12.

This is the background for the **three scenarios** the Commission presents as possible ways to develop and identify the future social policy on the EU-level:

- To limit the “social dimension” to free movement;
- To allow that those Member States, who want to do more, could do more in the social field;
- To deepen altogether – with 27 Member States – the social dimension.

This overview is followed by short explanations which outline the “**pros and cons**” each scenario might have, whereby it is very obvious that the reflection paper is not in favour of the first scenario.

Unfortunately the reflection paper does not really point out how this discussion will be set up. It mentions the Gothenburg conference on 17 November 2017 as a social summit by the Commission and the Swedish government, but it is not explained how all kind of actors, like civil society and churches can contribute to this worthwhile discussion.

But CEC will have to discuss how CEC can contribute to this debate, bear in mind that Christian theology and social-ethical thinking and reasoning has shaped the roots and traditions of European welfare state. And the question how social policy has to be developed in the best way for the future and to address future challenges is of utmost interest regarding every single person, the European societies and the interrelation of local, regional, national and European level.