

OUR PRIORITIES

ETUC Resolutions 2000



EUROPEAN TRADE UNION CONFEDERATION

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EMPLOYMENT





Lisbon Summit

A NEW OPPORTUNITY FOR A STRATEGY FOR FULL EMPLOYMENT

Lisbon, 22/3/2000

For the ETUC, the Lisbon Summit has to mark a turning point in the economic and employment policies of the Union. The Summit represents an opportunity to build a real European Employment Pact based on policies for economic growth, structural reform and the better functioning of the labour market.

Lisbon has to guarantee the coherence and integration of the currently distinct Luxembourg, Cardiff and Cologne processes into a single strategy for full employment.

The ETUC supports the proposal of the Portuguese Presidency to give the European Council a steering role in the fixing of general objectives for the economic and social development of the Union supported by joint contributions from the EcoFin and Social Affairs Councils.

This also requires a reinforcement of social concertation at European level in the defence and promotion of the European social model.

1. Guaranteeing the macro-economic framework

The European Union must agree an ambitious strategy for achieving 3.5% growth which is more qualitative, employment-generating and environment-friendly. This should be supported by a “policy-mix” based on the real and determined co-ordination of macro-economic policy and its components of budgetary, structural and investment policies, capa-

ble of thereby realising economic governance in addition to monetary policy. A dynamic, negotiated, wage policy must stimulate demand in the current period and re-establish a better distribution of the benefits of growth. Tax policies must be developed which guarantee social justice, the fight against tax dumping, and better conditions for employment.

On the agenda today is growth, investment and research and development, with the objective of increasing the overall EU employment rate to 70% and cutting by half the unemployment rate between now and 2005.

2. Towards a Europe of social and technological innovation

The challenge of the innovation society is linked to the ability of the European Union to stimulate research and development of new technologies, especially clean technologies, and equally to its capacity for innovation and the development of new services.

The deficit in terms of investment in research and development, in particular of companies, between the EU and the USA and Japan is unacceptable if we want to guarantee the future of the European economy and to shape the development and autonomy of industrial policies in all sectors, in particular in the information technology sectors, in order to assure the conditions for full employment.

The EU should have as an objective the creation of a co-ordinated research area (to include socio-economic and educational research and development) and it should allocate 3% of GDP for this purpose.

Technological innovation must, however, be accompanied by a capacity for social innovation underpinned by the democratisation of the economy. Faced with current levels of restructurings and concentrations, better information, consultation and participation of workers and their trade union representatives is fundamental to economic and social efficiency, to being able to defend workers and to manage change. In order

to give workers a say in the process of structural change it is necessary to revise the existing European Works Council Directive. The Council must urgently adopt the Directives on the involvement of workers in the European Company and on the information and consultation rights of workers in all companies.

Similarly, the ETUC demands the setting up of an Observatory on industrial change and the obligation to produce an annual report on change taking place in companies. Both of these would be tools with which to anticipate and manage change in a proactive fashion, in particular at the level of sectors where there is a determining role to play.

3. A knowledge society for everyone

The fast pace of technological change and the development of new technologies requires that men and women have a broad and solid educational base in order to be able to manage changes in their working lives. It also demands the integration of continuous vocational training and life-long learning as an investment and as a permanent source of richness for companies and workers.

Public authorities have a major responsibility to create the framework for education and qualitative initial vocational training. Such a framework establishes the necessary base for continuing training and life-long learning, for the acquisition of new skills linked to new qualificational needs, and for ensuring support for setting up and financing with the employers vocational training and life-long learning.

Developing women's access to training should facilitate the strengthening of their qualifications and equal opportunities.

Progress in the recognition of qualifications must be made and new arrangements have to be put in place for the certification of competences which take into account the training and skills acquired by workers during different phases of their employment. The objective of training must be to improve qualifications and to avoid the creation of new inequalities linked to discrimination in access to skills between those

who are already qualified and those who have little, or no, qualifications.

The integration of life-long learning into working time must be developed in the general framework of a reduction and reorganisation of working time and training plans should be the subject of information, consultation and negotiation at company level.

The objective of having a permanent level of 7% of active workers in training should be fixed in the framework of the employment guidelines. This objective should be linked to that of a minimum percentage of total wages, to be defined by the social partners according to their responsibilities at national and sectoral level.

4. For solidarity and socially cohesive Europe

The future of social protection systems is at the heart of the European social model. The ETUC defends the primacy of solidarity to assure the quality of social protection for everyone and universality in order to guarantee minimum rights.

The defence and the promotion of the value of solidarity is linked to the improvement of social protection, to necessary modernisation and to reforms guaranteeing the continuity and financing of systems. For the ETUC, the High Level Group put in place by the Council to reflect on these reforms must closely associate trade unions in this work and it therefore has to include the ETUC in this Group.

The ETUC supports fully the Commission's proposals for directives on non-discrimination as well as new initiatives which must be quickly taken to reinforce equality between men and women and to guarantee equal pay.

The ETUC calls for guidelines, drawn up in the same way as those in the Luxembourg, which would support the objectives regarding convergence in social protection and the establishment of a process of social benchmarking for creating landmarks.

5. Commitment from the social partners

The considerable challenges ahead demand a strong role for the social partners in terms of tripartite concertation and in terms of social and contractual relations. The employers cannot escape from this responsibility.

The ETUC reiterates strongly the proposals made last March 1999 to UNICE regarding a real work programme for the Social Partners which would make a significant contribution to a concerted strategy for full employment. In the absence of a positive response from the employers, the ETUC will request the Commission to exercise its responsibility for initiating legislation.

The trade union movement has proposed to the employers concrete themes for negotiation and for discussion, notably on temporary agency work, on telework and on the development of access to continuous vocational training and life long learning. These proposals have not yet received any concrete response. European employers must become conscious of the stakes involved and take up this path of negotiation and constructive dialogue.

If the European Union is to succeed in this new strategy for full employment, a vigorous mobilisation of all actors is necessary. For the ETUC, this means that the Social Dialogue must pick up speed.



EUROPEAN COUNCIL SANTA MARIA DA FEIRA

Executive Committee, 15-16/6/2000

On the eve of the Feira European Council, taking place on 19 and 20 June, the Executive Committee of the European Trade Union Confederation would once again like to call to mind the trade union claims and proposals relating to the different topics on the Summit agenda, and in particular those on social fundamental rights which must be included as an item on the Agenda of the IGC.

To apply these proposals and convinced that the worker's mobilisation and actions remain essential to evolve from a Euro-dominated Europe towards a social, citizens' Europe, where full employment reigns, the Executive Committee is pleased with the mass participation in the Euro-demonstration called by the ETUC in Porto on 19 June.

The ETUC calls on the Council, as it deliberates on the broad economic policy guidelines, to stick to the decisions made at the Lisbon Summit, which aim for the return to full employment in Europe, for more and better jobs.

To this end the EU's macroeconomic policy must clearly aim for stronger and long-lasting growth, taking into account the core data on the EU economy and considering the need to rapidly reduce unemployment. All the more so as the recent ECB decisions - which the ETUC considers to be unjustified - risk having a damaging effect on growth.

The European Council should also show its determination to remove the obstacles hindering the approval of the fiscal package put forward by the Commission.

The ability to move ahead in the field of European fiscal matters is not only a question of economic requirements and social justice; it is also a credibility test of the will to progressively lay the foundations for “European economic governance”.

The Executive Committee equally calls upon the Council to find a positive solution on the Status of the European Company including the section on worker participation.

The Executive Committee underlines the interest of the High Level Forum organized by the Portuguese Presidency on June 15 which has allowed to express the engagement of the different role players in the Lisbon achievements, in order to highlight the importance of Social Dialogue and the need to reinforce social negotiation along with new responsibilities of the Council defined in Lisbon and awaits that the Feira Summit gives a first indication in this direction.

The other measures to be discussed at the European Council - relating to innovation and new information technology equally as an instrument of social inclusion making these technologies available to everyone - must aim to insure the means of a proper education system and the accessibility conditions to lifelong learning, the performance and competitiveness of European companies, but also wage requirements in terms of employment, work quality and social protection.

More specifically, the ETUC is asking for the Small Enterprise Charter to fully integrate the recognition of these companies’ social responsibilities given that their special status does not exonerate them from fulfilling obligations in the area of social fundamental rights and in particular concerning health and safety in the work place, access to vocational training, trade union representation and contractual relations.

The Executive Committee finds it inadmissible that no less than 65 million people in Europe live under the poverty line and calls on the European Council to decide on a coordinated European strategy against all forms of social exclusion.

The ETUC considers that this strategy, complemented by precise objectives and a detailed agenda for its implementation, should draw its inspiration from the Luxembourg process Employment Guidelines, which are

being tried and tested. Moreover, this strategy should also include the active involvement of trade unions as well other organisations which have a social vocation.

Furthermore, the European Council is to reflect in a policy debate upon key matters pertaining to the future development of the European Union, such as the ICG and the Charter of Fundamental Rights, for which a final decision will be made at the end of the year.

Taking into account its position on these matter, the Executive Committee calls on the Heads of State or Government to decide on broadening the agenda of the ICG to include Fundamental Rights, so that - based on the results of the Convention currently drafting the Charter - these rights, including social and trade union rights, may be incorporated in the Union Treaty. This integration into the Treaty is particularly important in the area of the enlargement of the Union. The ETUC equally underlines the necessity of a link between these fundamental rights which must be guaranteed and the elaboration of the Social Agenda.

Executive Committee, 25-26/10/2000

General Comments

1. Since championing the addition of the Employment Chapter to the Treaty by the Amsterdam Intergovernmental conference in 1997, the ETUC has actively worked to make a success of the resultant Luxembourg process and European Employment Strategy. The ETUC believes that together with better macroeconomic conditions, the Strategy has contributed significantly to the improvement in the employment situation.

2. The ETUC recognises that a number of improvements have been made in the Commission's draft of the 2001 Guidelines. In particular, the ETUC welcomes the inclusion of the Lisbon European Council full employment objective, together with the need to promote social cohesion. Member States have now to set national targets to contribute to raising the overall European employment rate to 70 per cent by 2010, and the rate for women to over 60 per cent. The social partners should be involved in this process.

3. Unfortunately, in recent months uncertainty about the macroeconomic situation has increased due in particular to oil price increases and the euro exchange rate. A number of recent indicators have shown falls in business and consumer confidence. This situation alone would amply justify a reinforcement of the Employment Guidelines. Extra financial resources are needed, and any temptations to divert elsewhere savings so far made due to falling unemployment, rather than to use them to for active policies such as for training, must be resisted.

4. A macroeconomic response to the current situation is also required and, as the ETUC has always argued, this should be an integral part of the Employment Strategy. Through involvement in this strategy and the modernisation of labour markets, trade unions have been committed to trying to make the recovery process a success. It is not the actions of the European trade union movement that have, or will, threaten recovery. The ETUC has recognised the importance of not allowing inflationary pressures to build up once more. Indeed, wage bargainers have been making a major contribution to low inflation, as the ECB itself has recognized.

5. However, early in October the ECB increased interest rates for the seventh time since November 1999 - ostensibly to counteract inflation pressures though it appears that the Bank also wanted to support the euro. The immediate reaction of the euro was to weaken, not to strengthen - thereby threatening to increase imported inflation - due to fears that the real economy and the recovery process would indeed be damaged by the ECB's actions.

6. The ETUC is fully aware of the nature of the Bank's treaty-given mandate - our criticisms relate to the way in which it has been trying to fulfil this mandate, and to its rather simplistic views on how labour markets operate. That said, the ETUC does recognise that Europe's problem is not just the form that monetary governance has taken, but that the EU still hasn't developed effective economic governance as well.

7. Instead of individual Member States trying to deal with energy price increases and potential shortages on their own, Europe must deepen and strengthen its procedures to ensure effective economic coordination. Indeed, this is part of what the Lisbon Summit in March 2000 sought to set in hand, and what the Stockholm Summit in March 2001 is due to follow-up. The ETUC agrees with President Prodi that the Commission must play a central role in this and must be the spokesman for 'economic Europe'.

8. Coherence must be assured between the Luxembourg Employment process, the Cardiff process of structural reform in goods, services and financial markets - with renewed priority being given to the development of European energy, transport and environmental policies, and the Broad Economic Policy Guidelines exercise. On the latter, the

ETUC will be insisting in the November meetings of the Cologne Macroeconomic Dialogue that co-ordinated budgetary policies are used to support the recovery and to neutralise the potentially inflationary effects of higher fuel prices, thereby lifting unrealistic burdens from monetary policy, and allowing interest rates to be reduced.

Detailed comments on the Guidelines

9. The ETUC recognises that a number of the proposals it has made for reinforcing the Guidelines have been acted upon, though not necessarily fully. These relate to: lifelong learning, targeting, the quality of work, health and safety, undeclared work, the territorial dimension, extra resources, and discrimination. The wording of Guideline 2 on benefits and taxes has also been improved to underline the need for an incentive (and not a punishment) approach.

10. However, further progress on gender mainstreaming throughout the guidelines is required. The need to close gender gaps, and particular the wage gap, must be more rigorously addressed. The emphasis regarding the reconciliation of work and family life should be on parents, rather than just women. Statistical information should be broken down by gender.

11. The ETUC also considers that there is scope for further improvement in the following areas:

- More quantitative targets are required generally (related for example to the record of the three best performing Member States), with existing and new targets being broken down by gender

- The concept of the quality of work should be made more explicit, with qualitative objectives being set

- With respect to health and safety, targets are required for new as well as traditional risks, and the problems of excessive stress, with young people being particularly at risk, deserve attention (and the Commission's handbook on 'Guidance on work related stress' should be made widely available)

– The objective of reducing absenteeism by 10 per cent a year should be added

– Policies for active ageing must recognise that those who are forced out of the labour market against their will are entitled to full social protection; the problem of poor working conditions which shorten the effective working lives of many people, and thus make necessary early retirement, must also be addressed

– Territorial considerations should be included in all pillars, and not just in the entrepreneurship one, and the need for other policies, such as competition policies, to be consistent with these considerations should be assured

– The new section on emerging bottlenecks should make it clearer that one of the fundamental purposes of active policies, such as training, is to deal pre-emptively with bottlenecks by using existing human resources more fully; when employment rates are relatively low, and when many women would like to be able to work full time instead of part time, it is quite inappropriate to try to rely instead on increased immigration.

12. The ETUC considers that the analysis underlying Guideline 13 on non-wage labour costs is partial and that the Guideline should not therefore generally applicable.

13. The lettered points of the horizontal introduction should have the same status as the numbered Guidelines.

14. The ETUC supports the work underway on developing better statistics and structural indicators, including on employment. Indicators will be used, *inter alia*, to prepare the Spring Economic and Social European Council. The ETUC will be making its own contribution to this work shortly.

The Social Partners' role

15. The ETUC welcomes the strengthened references in the Guidelines to the roles and responsibilities of the Social Partners. In view of this, the 'considerants' of the draft Council decision should include a reference to the opinions of the social partners.

16. With regard to negotiations, the Commission is critical of the Social Partners in general for insufficient progress. This is misleading, and instead the position of the two sides should be identified. For its part, the ETUC has been prepared to enter into negotiations on education and training, and on modernising the organisation of work:

— On education and training, the employers' representatives have so far only agreed to the setting up a new Social Dialogue working group. The ETUC is insisting that this group should have the specific mandate of seeing whether negotiations are possible.

— On work organisation, only some aspects of working time have or are being negotiated at the European level. It has been agreed that the existing Social Dialogue working group on Labour Market Policy will meet to look at how to follow up the joint ETUC/UNICE/CEEP report on 'Factors for Success'. This examines social partner actions and agreements in relation to Guidelines. The ETUC will seek to ensure that this group examines as well work organisation issues so as to respond directly to the Guidelines.

17. The ETUC is also prepared to enter into negotiations with the European employers with regard to the new invitation on information society literacy. The ETUC welcomes the implication in Guideline 16 that if the negotiation route is not used, or fails, then the objective of information society literacy will have to be achieved (and maintained) through public action.

18. Finally, the ETUC has long called for a specific guideline on the public authorities systematically involving the social partners. The ETUC therefore welcomes:

— the proposal that Member States should develop a comprehensive partnership with the Social Partners for the implementation, the monitoring and the follow-up of the Employment Strategy, and

– the invitation to the Social Partners at the European level to monitor, encourage and support national efforts, and to define their own contribution.

Provided the public authorities accept their full responsibilities too, the ETUC at the European level, and affiliated organisations at the national levels, will be ready to try to assume the active roles proposed. Early discussions should be held in the Social Dialogue Labour Market Group, and in corresponding fora at the national levels, on the details of how the Social Partners should work together.

SOCIAL EUROPE



Executive Committee, 25-26/10/2000

Introduction

The ETUC welcomes the fact that social policy is now placed in a broader context at European level.

On the one hand the Social Agenda must be in synergy with the employment guidelines, and on the other it must translate into action the rights which are defined in the Charter of Fundamental Rights which is currently being elaborated and whose nature will be determined by the Council of Biarritz.

Finally, a reading of the Agenda cannot be separated from the consultation document from on the modernisation of work organisation, in which the Commission establishes a new approach as regards the conception of minimum standards which is extremely contestable¹. It is abnormal that the Commission disperses common elements of social policy in difference texts.

¹ In the consultation paper the Commission writes: "Mandatory rules (i.e. those who allow for no derogation at lower level) should be limited to essential issues relating to fundamental social rights and principles and to health and safety at work." This calls into question the whole system of European social regulations which is based on the principle of frameworks and minimum rules: minimum rules that must be met but that can be exceeded.

The Social Agenda has for objective to establish the social policy of the Union for the next five years to come, and it is therefore fundamental that it takes into account the complete range of initiatives, actions and means that are necessary for its application.

I. Analysis

1. The ETUC agrees with the analysis underpinning the Agenda and reflected in the European Council conclusions in Lisbon in March 2000; namely that there is a link and a synergy between economic and social progress.

2. The right macro-economic policy is fundamental, but this is not to say that social progress is determined only by economic factors; it has, and must be seen to have, an intrinsic value in itself. If the Union is to integrate economic, employment, and social concerns, then each side of this triangle must be equal.

3. That the Agenda is slanted towards the economic and towards improving productivity is reflected by the lack of concrete measures aimed at improving the quality of employment and combating precarious employment. Indeed, the entire subject of health and safety is seen in the context of change rather than as a central and permanent aspect of work organisation. This is especially regrettable given that many workers are facing a deterioration in their working conditions.

4. The ETUC recalls that the Lisbon Council stated that: “The European Social Model, with its developed systems of social protection, must underpin the transformation to the knowledge economy. However these systems need to be adapted as part of an active welfare state to ensure that work pays, to secure their long-term sustainability in the face of an aging population, to promote social inclusion and gender equality, and to provide health services.”

5. If the European Union really believes this, why should the Social Agenda expressly rule out the need for any additional funding, from

the Union of from Member States, to implement the measures it contains and to speed up the convergence of working and living standards of men and women in Europe? Do we not want the transformation to the knowledge economy to take place speedily? The Union is now seeing a period of stronger economic growth and many governments have greater opportunities with budgetary surpluses. The Commission's reticence in this regard illustrates a certain ambiguity in the Social Agenda about securing the necessary finance to achieve the objectives that have been agreed. In our view the Social Agenda should clearly and explicitly call for increased resources to fulfil social commitments.

6. Similarly, why should the Commission be reticent about the positive contribution of rising living standards to economic growth, employment and prosperity? Are lower wages (unit labour costs fell by about 6% between 1991 and 1998) to be part of the European Social Model? The Commission says that wage moderation "plays an important role in sustaining a favourable macro-economic climate". The ETUC refuses to see wage moderation as a fixed principle: rather it is a tool to be used under specific conditions, and at the right time. The ETUC also wants to stress that a fairer distribution of wealth is important.

7. Indeed if there is a fixed principle, it is that sustainable growth and employment can only be achieved by looking at both demand and supply-side factors and by ensuring that these move in general at the same rhythm. A return to full employment, one of the key objectives of the Social Agenda and the Lisbon Council, depends in part on improving the real wages, especially for low-paid workers.

8. The Commission's approach in the Agenda has been overly influenced by the premise that political support in the Council for far-reaching proposals will not be forthcoming. In this sense, while it has correctly identified the problems, the remedies proposed fall short of what is required. The Commission has in effect imposed on itself a kind of self-censorship and this is detrimental to the quality of its proposition.

9. For example, the Commission draws attention in the Agenda to a number of key challenges, notably as regards securing the right balance between flexibility and security, tackling the age and gender gap, and modernising and improving social protection. The social part-

ners are called to contribute to meeting these challenges. However, in the section on Promoting quality industrial relations no mention is made of the steps that are needed in order to promote the social dialogue at all levels. Nor is anything said about the need for comprehensive workers' and trade unions' rights, the existence of which is a prerequisite for the social dialogue and for ensuring decent living and working conditions, in all sectors of the economy, both within the Union and in the candidate countries.

10. Certain extremely important initiatives to improve workers' rights are lacking in the proposed Agenda, such as the revision of the European Works Council Directive, the obligation of companies to produce an annual report on managing change, the establishment of an Observatory on Industrial Change.

11. The setting up of such an Observatory will be an important mechanism to stimulate the social dialogue, especially at the sectoral level, and to better anticipate, direct, and respond to, change.

12. In addition, while many of the subjects in the Agenda are suitable for social dialogue, many require complementary legislative changes from governments. For example, agreements by the social partners on new forms of work organisation and jobs, as proposed in the section Anticipating and managing change and adapting to the new working environment are important (although we would point out new is not always better), but complementary legislation is also needed to ensure adequate social security rights for part-time, fixed-term and temporary agency workers. Similarly, legislative proposals, and not just social dialogue, are needed to implement progressive retirement measures, and to guarantee a minimum income for everyone.

13. In this respect too much reliance is made in the Agenda on the "open" method of co-ordination. In the ETUC's view such a method, as the Luxembourg process illustrates, can indeed support change in complex areas, including in those where legislation may not be appropriate or not yet feasible. It may also help implement existing legislation. However, it should not be used to dilute the objective of social convergence in Europe. Care must be taken to ensure that benchmarking and the open co-ordination method are used to underpin and support tangible, speedy and visible progress towards common objectives, oth-

erwise frustration will result and the usefulness of the method will be questioned. This demands clear and focused objectives, fixed timetables and rigorous evaluation and follow-up.

14. Furthermore, the open co-ordination method cannot replace the need for specific action in certain areas, in particular as regards minimum standards. The implementation of a minimum income, for example, is not something to be reached in stages, incrementally. For the candidate countries, the “acquis communautaire” is also something which must be adapted in its entirety. Ensuring respect for the “acquis” demands greater efforts by the Commission in terms of encouraging, monitoring and analysing progress in this area.

15. We believe that the social dialogue needs to be developed complementarily with legislation. However the ETUC wants to stress the fundamental role of the Commission in ensuring minimum standards in Europe and in stimulating the social dialogue through legislative initiatives as long as the employers refuse to enter in voluntary negotiation. While the ETUC is firmly committed to strengthening the cross-sectoral and sectoral social dialogue on equal pay, gender segregation and reconciliation, it “takes two to tango”. And indeed the Commission and Member States have also to take steps to improve the situation in these areas.

16. It is deeply regrettable that there is nothing in the Social Agenda on quality childcare and eldercare facilities and services, as without these it will be difficult to make progress on the other objectives set in relation to equal pay and gender desegregation and access to employment for women. Neither is there a clear reference to revising the working time Directive and reducing the actual working time of full-time workers, another key mechanism to assure a better distribution of paid work and family responsibilities.

17. Finally while it is important to better involve Member States, and we would add, the social partners, in monitoring the implementation and the review of Community legislation, the Commission has to strengthen its own ability to do these functions. This demands going beyond a purely legal approach towards a better analysis of the implementation in practice.

II. List of proposals and initiatives

1. Information, consultation and participation rights of workers

- Directive on information and consultation rights of workers at national level
- legislative proposal to ensure the non-discrimination of workers exercising their trade union rights
- legislative solution to the participation of workers in connection with the European company statute
- legislative proposal to ensure the integration of employment considerations into EU decisions concerning mergers
- revision of Directive on European Works Councils (94/45/EC)
- revision of the Directive on collective redundancies (75/129/EC) modified by (92/56/EC)
- revision of Directive on the transfer of enterprises (77/187/EC)
- revision of the Directive on insolvency (80/987/EC)

2. Quality of work

- concrete initiatives concerning rights and conditions of access for all workers to continuous vocational training and life-long learning, together with complementary measures, including financial support
- new initiatives to guarantee the certification of qualifications and diplomas
- Observatory on Change (in follow up to the Gyllenhammar report)
- obligation for an annual report on managing change (in follow up to the Gyllenhammar report)
- binding instrument on the direct participation of workers and their representatives, in production design, introduction of new technology, and organisational change
- legislative proposal on individual dismissals
- legislative proposal concerning telework (if the employers are unwilling to negotiate) and homework; plus measures to deal with growing groups of economically dependent and “false” self-employed
- binding instrument on sexual harassment and harassment in general.
- new legislative proposals or amendments to existing directives to ensure the inclusion of social provisions in public procurement contracts.
- revision of working time Directive (including lowering of maximum 48 hours weekly to 44 hours and revision of the article 17 on derogations)
- revision of the “posting” of workers Directive (96/71/EC)
- revision of the equal pay directive (75/117/EC) in order to be coherent with the legislative proposals on non-discrimination

- concrete measures to develop employment opportunities for disabled people
- measures to integrate the social dimension into research, even where this is dealing primarily with technical and or economic issues.
- articulation between the Social Agenda and the forthcoming Communication on health and safety, and concrete legislative initiatives to tackle health and safety problems, e.g. extension of the cancer directive to include asbestos and carbogenic substitutes
- * an instrument on the protection of workers from harmful stress.
- articulation with the fifth action programme on equality and measures to ensure gender mainstreaming in all areas covered by the Social Agenda, and indeed all areas of Community policy

3. Improving social protection

- legislative proposal for the establishment of a right to a minimum income
- legislative proposal on social security rights (pensions, unemployment allowances, healthcare) for atypical workers, including part-time, fixed-term and temporary agency workers
 - right of access to health services
- legislative proposal concerning progressive retirement
- legislative proposals regarding supplementary social security schemes, including pensions
- comprehensive standards on childcare and eldercare facilities, plus a concrete Action Programme and necessary resources
- revision of Directive 86/378/CEE on equal treatment in occupational social security systems

- revision of the maternity Directive (92/85/EC) in order to strengthen leave entitlements and payments and in order to comply with the new ILO Convention 183.

5

A CONCERTED STRATEGY FOR MODERNISING SOCIAL PROTECTION

Executive Committee, 21-22/3/2000

1. Social protection, at the heart of the European debate

1.1. ETUC observes that for the Commission, the Communication entitled “A Concerted Strategy for Modernising Social Protection” (COM(1999) 347 final) is part of the reflection process at European level developed in its two previous Communications¹.

With this third Communication, the Commission “proposes to open a new phase in this ongoing process of reflection”, and in particular to “establish an agenda for deepened co-operation... based on four key objectives within the overall challenge of modernisation:

- to make work pay and to provide secure income;
- to make pensions safe and pension systems sustainable;
- to promote social inclusions and sustainable health care; and
- to ensure high quality and sustainable health care”.

¹ The 1995 Communication entitled “The Future of Social Protection: a Framework for a European Debate” (COM(95) 466 final), had for the first time placed the debate concerning social protection in a European context.

The Communication of March 1997 entitled, “Modernising and Improving Social Protection in the European Union” (COM(97) 102 final), established the terms of reference of the debate, that is to say the major challenges confronting European social protection systems. We would also draw attention to the Community Charter of Workers’ Fundamental Rights (1989) and the Recommendations on the objectives and policies of social convergence as well as the common criteria relative to adequate resources and services in social protection systems.

1.2. The Communication recognises that the issue of social protection is discussed in numerous forums such as, for example, the Economic Policy Committee and the Employment Committee, in connection with the process of elaborating and implementing guiding principles for the economy and employment guidelines.

In the first forum, the predominant concern is to respect the criteria of the Stability Pact and this concern shapes the discussions on social protection, notably as regards reforming pension and health care systems, against a backdrop of budgetary discipline and the need to reduce State spending.

During the discussions on the employment guidelines, the emphasis was placed on the reduction of social/tax contributions (or non-wage related costs), without worrying about the need for an alternative source of funding to make good the loss of financial resources.

Although ETUC supports the need for a certain degree of coherence as regards macro-economy, employment and social protection policies, it cannot accept that social protection should be subject to the imperatives of the two other fields, which would result in a lower level of social protection, contrary to the ambitions laid down in the founding Treaty on European Union Treaty which calls for “harmonious development and a high level of social protection”².

1.3. ETUC reiterates the principal decisions of its last Congress in the field of social protection, in particular:

- at European level, an approach similar to the Luxembourg process in the framework of employment policy should be adopted as regards social protection³;
- the guidelines for social convergence (guaranteeing a degree of upward convergence) should, in an initial phase, pursue precise objectives, including widening the financing base of social security by transferring the cost of labour to other production factors, and guaranteeing health care protection for all;

² Article 2 of the Treaty of Amsterdam.

³ para. 40,41,42, 43.

- an assessment of the minimum income mechanisms and the principle, that everyone should have an adequate income, should be integrated into the Treaty;
- the financial viability of social protection systems depends to a large extent on future economic growth and on the creation of jobs;
- the top priority remains the long-term viability of public pensions schemes, based on the solidarity between generation and financed in accordance with the PAYG (pay-as-you-go) system.
- all workers, including workers with atypical contracts and those in false self-employment should be covered by social protection systems and have equal rights and a duty to make contributions

2. Introducing, at European level, an autonomous process, with a view to defining a policy in the field of social protection

2.1. In order to guarantee “the high level of social protection”, ETUC calls for social protection to benefit from the same instruments at European level as economy and employment, namely:

- the organisation and “formal” existence of Councils of Social Affairs Ministers;
- a Social Protection Committee, with the involvement of the social partners.
- At present, a high- level group, composed of civil servants from Member States, has been set up. The ETUC should be involved in their activities.

2.2. However, ETUC also proposes that, in addition to the involvement of the social partners at European level, there should be a debate at national level. In other words, the national official(s) participating in the European debate, will discuss the themes proposed with the social partners, at national level, before and after the European debates, in order to ensure that the issues involved are prepared and followed-up at national level. As social protection and its organisation and financing are the primary responsibility of each Member State, the debate at European and national levels should be closely co-ordinated.

2.3. Although ETUC welcomes the fact that the Commission and the Council⁴ want to initiate a process of co-operation between Member States founded on the four specified objectives, any such initiative will, however, be ineffectual unless a fifth essential objective is added to these four objectives, namely the guarantee of sustainable funding for social protection. The problem today is the distribution of wealth, which is characterised by an increasing inequality in terms of income or, in another words, the rich are constantly growing richer to the detriment of the poor. Social protection, in the same way as fiscal measures, is a mechanism for the redistribution of income. A failure to have an open debate on the level of sustainable funding will undermine social cohesion.

2.4. The Communication calls upon the Council to endorse “a framework for closer co-operation in the field of social protection, based on the exchange of experiences, mutual concertation and evaluation of ongoing policy developments with a view to identifying best practices”. In ETUC’s opinion, even if there are always lessons to be learned from exchanges of good practices between Member States, a strategy based on such an exchange seems, in this particular case, to be insufficient, indeed inappropriate, given the urgency of the situation.

In fact, ten years after the adoption of the “Community Charter of Workers’ Fundamental Rights” and of the two “Recommendations” that followed, no progress has been made. On the contrary, given the situation as regards poverty, we have gone backwards.

Moreover, the social protection systems are, in each State, the fruit of their history and all developments in this area are the result of a social compromise, which itself is the result of the national social contract.

Therefore the idea of creating a European initiative in this area to identify the best practices, seems neither relevant nor effective.

⁴ The Council, at its meeting of 29 November 1999, expressed in its conclusions the need for co-operation in order to modernise social protection.

That is why ETUC wants a more aggressive approach, with a new bolder phase being opened. With that in mind, it proposed at its last Congress, with regard to social protection, adopting an approach similar to that followed in the field of European employment policy, namely fixing guidelines at European level as regards social convergence, with a timetable for their implementation, together with a system of controls involving the social partners. It would be left to the national governments and social partners to choose the modalities for their implementation.

3. Clarifying and reinforcing the positive aspects of the Communication

3.1. Although ETUC considers that it is positive that, for the first time, the Commission has established a connection, in one of the four proclaimed objectives, between the fact of being in employment and that of having “a secure income”, in other words that there is a link between employment and income, it should be made clear what is meant by secure income.

In ETUC’s opinion, this should not mean opting for a “workfare state”, but rather involve developing skilled, sustainable employment in order to enable those in such jobs to earn a decent living. For ETUC, this approach is essential to combat the development of situations of “working poor”.

3.2. ETUC also welcomes the fact that measures designed to reconcile work and family life are mentioned in the context of social protection, since it believes that this question must be included in the debate on the welfare state.

3.3. Likewise, although ETUC supports the affirmation of the need to “ensure high quality and sustainable health care”, in particular by ensuring “access for all to high quality health and (by reducing) health inequalities”, the assertion of such principles must be accompanied by effective measures designed to take whatever action is necessary to improve and reinforce existing public health care systems and thus oppose the privatisation moves which seem to be on the agenda in certain States.

In fact, privatising health care amounts to subjecting such care to market forces, which are synonymous with exclusion and risk selection and would create societies with different levels of social protection, thereby undermining social cohesion. For ETUC the right to health care for all is an essential demand.

3.4. Although ETUC approves of the “comprehensive and integrated” approach “to fight social exclusion, involving all relevant policies and actors”, as proposed by the Commission, such an approach is not sufficient. It is essential that the fundamental social rights are guaranteed for everyone, and that such rights should be set out in the founding Treaty on European Union.

3.5. Finally, in ETUC’s view, it is important to emphasise the crucial role played by employment, and in this connection ETUC reiterates its demand for full employment, in guaranteeing a high level of social protection. However, a policy of developing employment, and quality employment, is only feasible in the framework of a bold macro-economic policy.

4. Rectifying other deficiencies in the Communication and correcting certain ambiguities in the text

4.1. In addition to the question of the guarantee of secure funding for social protection, ETUC has observed other deficiencies. Thus the Communication reduces the gender dimension to the poverty of older women which “deserves particular attention”. Without wishing to deny the importance of this subject, ETUC calls for the inclusion of the gender dimension in the listed objectives. As an example of this inclusion, we call for adequate care services for children and dependants to be established, so as “to make work pay” for women. The situation in this regard must also be discussed in the projected “high-level” working group.

4.2. The promotion of social integration also requires attention to be paid to partly disabled persons and for this dimension to be included in a European programme in this area. This commitment must be clearly stated.

4.3. Moreover, a detailed examination of the Commission's text demonstrates that certain affirmations are to say the least ambiguous, and indeed a cause for concern at times.

- For example, when the text refers to “the restructuring of expenses”. What does such a restructuring of expenses mean if the question of alternative funding is not discussed? Once again, ETUC reiterates that it is opposed to any modernisation that involves reducing social protection.

- Likewise, what does the Commission have in mind when it proposes to seek “an appropriate balance between funded and PAYG (pay-as-you-go) systems”. Certainly the Commission very cautiously favours no system in this wording, but in the current circumstances there is a serious risk of seeing the latter system weakened and the former reinforced.

ETUC reiterates that the ‘top priority remains the long-term viability of public pension systems, based on solidarity between generations and therefore financed in accordance with the PAYG system.’

ETUC is fully aware that there is a need to look at ways of boosting legal pensions systems, while at the same time taking into consideration, as it made clear at its last congress, the existence of supplementary pensions are becoming an important feature of the European social protection landscape and it is determined to use the existence of such systems in its strategy in favour of employment.

- Although ETUC supports the aim of “encouraging flexibility in retirement arrangements”, in other words setting up systems of progressive retirement, subject however to the implementation and monitoring of such measures being the result of negotiations carried out with the social partners. While ETUC also supports the other objective which consists in “promoting active participation by older people in the life of the community”, it cannot accept the blanket assertion that that it is necessary to “discourage early withdrawal from the labour market”.

In fact, if certain companies use early retirement systems as a means of managing their older employees - and in this case, effectively, they must be sanctioned - such systems can however be justified, i.a. in the case of physically hard work or major economic restructuring.

ETUC cannot accept that, in such cases, those employees should be penalised through smaller pensions. This is a matter of equity and solidarity.

For ETUC, there is a need to establish an employment policy that does not discriminate against older workers, and this implies facilitating their recruitment, establishing new forms of organisation of work in companies, facilitating flexible formulas for progressive retirement, reducing stress, and improving working conditions, plus the promotion of life-long learning, in order to enable people to adapt to changes and thus avoid premature redundancies.

- As regards the chapter intended to “promote social integration”, certain expressions used, such as “fostering active measures” or “providing incentives”, are ambiguous, and can even be seen as making the people involved “feel guilty” and could imply that excluded persons are all excluded of their own choice and that they do not have the will or wish to change their situation for the better.

5. Meeting the challenge of enlargement, by drawing up precise guidelines

The way in which the Commission addresses the “challenge of enlargement” (devoted specifically to the countries of Central and Eastern Europe, for as regards Cyprus and Malta, the challenges confronting their social protection systems are similar in nature to those confronting the other countries in the European Union), is disappointing, even if it is positive that, for the first time, special attention is paid to this question.

In fact, the challenge which these candidate countries are facing, is to succeed the transition from a managed economy to a market economy, with the consequences that this approach implies as regards social protection. But the Commission refers to the need “to work towards the development of efficient, effective and sustainable social protec-

tion systems”, without making clear the main features of such systems.

In ETUC’s view, it is urgent for the Commission, in the framework of enlargement, to adopt a forward-looking approach to social convergence and consequently give these countries, which lack reference points in these areas, other than those proposed by the IMF and the World Bank, more precise guidance, even to the extent of laying down as a condition of EU membership that the reforms undertaken in the area of social protection should be based on and implement the same values as those on which the Union’s social security systems are based, namely solidarity, social cohesion (including the refusal of exclusion), the social dialogue, etc. The Commission should therefore provide them with technical and financial assistance in this connection. The screening to which these systems are subject must be not only administrative (for example controlling whether the administrations responsible for Social Security have a sufficient number of officials, etc.) but also qualitative.

6

FOR A REGULATORY FRAMEWORK AT EUROPEAN LEVEL CONCERNING OCCUPATIONAL PENSION SCHEMES¹.

Executive Committee, 13-14/12/2000

1. As it reminded members at its last Congress, the ETUC remains firmly committed to public pension schemes² which should be the fundamental element of retirement pensions. It is important, in these circumstances, that everything possible should be done to ensure the sustainability and financial viability of such schemes. That is why the ETUC welcomes the initiatives taken in that direction by several Member States, as for example the set up of “demographic reserve funds”. When these funds are established, however, measures should be taken to involve the social partners so that they remain permanently earmarked for their initial purpose and are not used by governments for other ends.

In the same way, the ETUC is particularly attentive to ensuring that the financial resources necessary for social protection systems, and pensions in particular, are not only maintained, including for reasons of compliance with the stability pact, but are also developed through the search for other sources of financing.

¹ The concept of “occupational pension schemes” covers the pension benefits provided as a supplement to the benefits paid by public pension schemes, in the framework of a professional activity.

² General resolution on trade union policy, the ETUC Congress, 1999 in Helsinki, paragraph 43

2. The importance that the ETUC attaches to public pension schemes is also based on the fact that these schemes implement mechanisms of solidarity, not only between generations but also within generations. So they enable pension rights to be guaranteed during periods of unemployment and career breaks for reasons of illness or for family reasons.

3. The ETUC is also convinced that, as regards the future of pension schemes, whatever method is used to fund them (on a pay as you go basis or through private financing), if population growth is a factor to be taken into consideration, it is not the only factor: the development of employment and growth (and increased productivity) are essential. Whatever the manner of funding, only existing wealth at any given moment can be distributed.

Hence the call by the ETUC, which is fully in line with the objectives fixed at the recent Lisbon Summit, to develop “full employment”.

4. Occupational pension schemes have developed, notably in the last decade - even if in certain Member States they are part of a longer-standing tradition - in order to supplement public pension schemes. For the ETUC, although they are part of the “European social protection landscape”³, occupational pension schemes should neither be considered as an alternative solution to the problem of the viability of public pension schemes nor, above all, allowed to undermine the latter. Above all public pension schemes should be maintained and their funding assured. On the other hand, in the Member States where, for historical reasons, the benefits of the public pension scheme are low, they can provide a useful supplementary source of resources for pensioners and, as such, they must be generalised to cover all employees⁴.

³ General resolution on trade union policy, the ETUC Congress, 1999 in Helsinki, paragraph 43

⁴ In the United Kingdom or in Ireland for example, where the public pension schemes provide minimal benefits, less than one employee in two is covered by an occupational pension scheme.

5. There are several techniques for the implementation of occupational pension schemes. The technique which is the closest to that generally used for public pension schemes, that is to say the pay as you go system based on the principles of solidarity and insurance, is that used in the so-called “defined benefits”⁵ scheme. Nevertheless, the national context and negotiating constraints, and more concretely, the balance of power, mean that this approach is not always feasible and other techniques may be adopted.

6. For the ETUC, the development and establishment of these occupational pension schemes must satisfy, in the interests of contributors and pensioners, a certain number of criteria, some of which must be laid down in a European regulatory framework and transposed into national legislation and/or collective agreements.

7. The ETUC requirements - some of which have already been expressed in the Resolution of the Helsinki Congress - for the establishment of occupational pension schemes are five in total. However, the ETUC does not claim that this list is exhaustive.

8. Thus the European regulatory framework should set out the conditions for their establishment, inter alia through collective agreements between the social partners on the appropriated level (national, branch, company level).

5 Generally speaking, there are two main types of occupational pension schemes:

- the so-called “defined benefits” schemes, in which contributors acquire, for a similar contribution, “identical” pension rights, whatever their age or gender; in other words, it is a scheme whereby the benefits are defined in advance by the sponsor(s) of the scheme (for example in percentage of final pay) independently of the contribution rate and the return on assets*
- the so-called “defined contributions” schemes, in which contributors constitute a “capital” which, when they retire, can be received in part or in full or partially transformed into an annuity. For the purpose of establishing the amount of the annuity, the fact that the contributor is a man or woman is important. In the case of a man, his annuity will be higher because his theoretical life expectancy at the time he retires will be shorter, whereas a woman, whose theoretical life expectancy is longer, will accordingly receive a lower annuity; in other words, it is a pension scheme, where only contributions are fixed and benefits therefore vary depending on the level of these contributions and on the return of assets .*

9. Occupational pension schemes set up must not simply be investment funds to guarantee a personal pension, but they must also be able to cover biometrical risks- that is to say, to guarantee an income, in case of invalidity and longevity and/or to a widower or a widow, and if necessary, to orphans, in the event of the death of the contributor, pending the implementation of a genuine individualisation of rights.

10. As soon as such occupational pension schemes are introduced, a company's contributions must cover all its employees, independently of the technique chosen. Access to such occupational pension schemes must be guaranteed to all workers in the sector or company, and of the multinational in case of cross-border membership, whether they are employed on a full-time or a part-time basis, and irrespective of whether they are working on open-ended or fixed-term contracts.

11. The principle of equal treatment between men and women must be applied.⁶

12. Once the occupational pension scheme techniques have been defined in an agreement between social partners (at sectoral and/or company level), ETUC organisations must be involved in the strategic choices and in the control of occupational pension schemes, including in the choice of the management body or bodies. They should bring their weight to bear on investment strategies⁷ so as to foster employment, favouring investment in companies which are keen to develop employment and which are generally regarded as "socially responsible" and thus avoiding purely speculative investments.

⁶ *At the current time, legislation in this area applies to the contributions and benefits of workers (both men and women). Employers can contribute differently according to the gender of employees. Some bodies require different actuarial calculations, depending on the gender of the employee, and taking account of different life expectancies.*

⁷ *General resolution on trade union policy, the ETUC Congress, 1999 in Helsinki, paragraph 43*

13. At European level, the regulatory framework which the ETUC demands, must not only be limited to the financial aspects related to the implementation of occupational pension schemes⁸, but must also give the same priority to resolving the social and tax aspects.

14. As regards what are known as the “social” aspects, the ETUC includes in that category both the participation of the social partners in the implementation of occupational pension schemes (as mentioned in the preceding paragraphs) and questions associated with obstacles to the mobility of workers.

On the last point, the ETUC wants to avoid workers who move from one Member State to another being penalised, when they want to acquire, or even preserve their rights. For that reason, the regulative framework must guarantee the acquisition, maintenance and transferability (or portability) of the rights of workers concerned⁹, and provide for “cross-border” membership, the abolition of vesting periods required before the definitive acquisition of pension rights in these types of occupational pension schemes, and the adjustment of pensions paid and annuities.

Likewise, the ETUC’s demand that the social partners should be involved in the strategic choices and control of these occupational pension schemes, must be incorporated as a clearly defined right in the framework, since these are in effect postponed salaries.

This also implies that such framework should indicate that the “ownership” of the funds amassed under these occupational pension schemes, remains, in the final analysis, with the contributors and pensioners and should not pass at any time to the body responsible for managing the funds, whatever its nature: a specialised investment management company, bank, a mutual insurance company or an insurance company.

⁸ *The Commission is currently considering envisaging a proposal for a Directive which would deal solely with the financial aspects of occupational pension schemes, linked to the free movement of capital.*

⁹ *A Directive (98/49) already exists on this subject, relative to the protection of the supplementary pension rights of workers and salaried and non-salaried employees who move within the Community.*

15. The European regulatory framework must also resolve, as a matter of urgency, the tax question relative to the implementation of these occupational pension schemes, in order to avoid for the workers and pensioners concerned, either double taxation (on the contributions and on the benefits), or non-taxation, with all the implications that the latter solution has for the general financing of social protection. That requires a minimum of tax co-ordination between the Member States.

16. As regards the financial aspects, it is vital to establish a minimum number of rules because it is essential to protect the rights of contributors and pensioners and to promote employment, without however impeding managers' room for manoeuvre or the freedom of movement of capital. These rules would relate inter alia to the need to ensure "prudent" management, and would therefore prohibit purely speculative investments and cover the amount of provision necessary to guarantee the rights of pensioners and future pensioners according to the technique chosen.

17. Finally, the ETUC considers that it is important to encourage exchanges of experiences and good practices regarding occupational pension schemes, between trade-unions, in order to identify the obstacles to the accomplishment of these objectives and, by benefiting from each others' experiences, to develop together solutions.

Executive Committee, 21-22/3/2000

1. The ETUC welcomes these two first legislative proposals relative to the implementation of equal treatment for all persons. The ETUC urges Employment and Social Affairs Council meeting to be held next June to adopt these proposals presented by the European Commission last November. Once these legislative provisions are adopted, the right to equal treatment can be exercised.. They are an indispensable first step and an important tool in the fight against discrimination.

The concept of harassment linked to discrimination, the distinction between direct and indirect discrimination, the fact that associations can institute legal proceedings, represent for the ETUC, in comparison with the legislation on equal treatment between men and women, on which the structure of these two texts is based, a real step forward.

However, the ETUC is aware that the effectiveness of these measures will above all be judged by its implementation. That being said, these proposals give rise to certain questions and observations.

2. In order to ensure that the proposal for a framework directive is implemented in an effective and efficient way, it must be supplemented by other legislative provisions. Thus it is essential to elaborate a specific directive as part of the European legislation on health and safety in the workplace in order to create a work environment, free of harassment, which will help promote a preventative approach to combating discrimination.

Likewise, along the lines of the approach adopted with the specific proposal for a directive “concerning the implementation of the principle of equal treatment between persons irrespective of racial or ethnic origin”, in the ETUC’s view, the framework directive must be also supplemented by specific directives, each one dealing in a comprehensive way, with the different forms of discrimination, such as those mentioned in its scope of application and covering all areas which fall within the Community’s competence. In this context, it is no longer relevant in the framework directive to go into detail about discrimination on account of age, as in article 5, and the ETUC calls for its deletion. The ETUC asks also to delete ‘undue hardship’, in the case of discrimination on grounds of disability. Reasonableness should be the only test.

Finally, the ETUC strongly supports to make the definition of indirect discrimination easier to understand and to use.

3. In the ETUC’s view, it is also essential to supplement this Directive by an agreement between the social partners at European level, based on the Florence Declaration¹. This has already led to agreements between social partners, spread between some sectors and enterprises² with the exception of two framework agreements at national level. The ETUC considers that a strong signal must be sent out immediately with a view to promoting a movement at European level in favour of the elaboration of procedures at sectoral level, and possibly at the level of individual enterprises, on the one hand, in order to deal with harassment and/or the complaints of victims of discrimination and, on the other hand, in order to ensure the monitoring of recruitment, promotion and redundancy practices.

1 Joint Declaration of the social partners on racism and xenophobia in the workplace, adopted in Florence, in 1995.

2 European Compendium of good practice for the prevention of racism in the workplace - European Foundation for the improvement of living and working conditions.

The European agreement should also aim to encourage positive actions. These measures are designed to improve the ability to compete in the labour market and pursue a career on equal footing as well as to achieve equality by creating an immediate result.

The implementation of the agreement will have to be assessed two years after its implementation.

4. The proposal for a Directive relative to the implementation of the principle of equal treatment between persons irrespective of their racial or ethnic origin, proposes the creation of an independent body, charged with promoting equal treatment between persons of different racial or ethnic origins. For the ETUC, the existence of a body to act as an independent watchdog to ensure the implementation of this Directive, can be a positive factor. However, the ETUC makes a distinction between questions of equal treatment linked to goods and social services and those linked to employment and working conditions. The social partners must be involved in the latter.

5. The ETUC notes that, even if the Directive, once adopted, will apply to Community nationals and to third country nationals in the EU, it is important to note that the Directive's provisions do not prohibit differences of treatment based on nationality. Thus, for example, the exclusion of third country nationals from Regulation 1408/71 concerning the maintaining in force of the social security rights of migrant workers, cannot be addressed in this framework.

The ETUC therefore calls for this aspect of the problem to be addressed by the new IGC.

6. These proposals also create a problem of hierarchy and consistency in case of multiple discriminations, in particular those linked to gender, race or ethnic origin. When a victim wants to institute legal proceedings, will he or she rely on European legislation governing the implementation of the principle of equal treatment between men and women, which provides for no collective action, or on European legislation covering racial and ethnic minorities which includes that possibility? The legislation relating to equal treatment between men and women will therefore need to be adapted.

7. Finally, it should also be noted that the ETUC approves the change regarding the onus of proof. When a person considers that he or she has suffered a prejudice as a result of the non-respect of the principle of equal treatment and establishes before a competent court facts which establish the presumption of the existence of direct or indirect discrimination, it is the responsibility of the other party (referred to as the defendant) to prove that there has been no infringement of the principle of equal treatment.



A REGULATORY FRAMEWORK FOR SERVICES OF GENERAL INTEREST AND PUBLIC PROCUREMENT

Executive Committee, 13-14/12/2000

1. The ETUC calls for its position paper “In the general interest” (Public services for European citizens - ETUC Charter on public services, 15 December 1998) and the joint position of the sectoral social partners, as agreed in the Joint Charter with the CEEP (Proposal for a Charter of services of general interest, 15 June 2000,) to be taken into consideration in the current debate. The ETUC is convinced that Article 16 of the Treaty should be extended by appending the ETUC-CEEP Charter on services of general interest as a protocol to the Treaty of the European Union. This was regrettably not included in the Nice Treaty and will now have to await the next treaty reform. In the meantime it will therefore be all the more important that, in particular, the Commission implements a coherent approach in its different, related initiatives. This should give effect to the perspective as set out in the ETUC-CEEP Charter, and, as reflected in the Nice summit conclusions, recognising the importance of services of general interest as a key element of the European social model in practice.

2. The ETUC calls for the Commission to pursue a proactive strategy for the negotiated modernisation of these services aimed at improving and developing them and based upon the general principles underlying services of general interest such as equal access, quality services, fair pricing, universality, the quality of work, quality employment, safety and social justice. This strategy should contribute to sustainable

social development and the fight against social exclusion and to territorial and social cohesion within the context of a market social economy and the European social model. The development of services of public interest is a precondition for the realisation of the Lisbon employment strategy.

3. The ETUC urges the Commission and Member States to create a regulatory framework for the operation of services of public interest: a framework directive with specific sectoral directives. As a directly involved party, the ETUC and its affiliates expect to be consulted on these proposals.

4. The ETUC welcomes the reference to the Social Partners' Joint Charter in the Commission's Communication on services of general interest; therefore, when proposing to open up the markets, the Commission should, as a precondition, also ensure respect for the quality of services and standards, including working conditions. The ETUC calls on the Commission to give due weight to Treaty Articles 2 and 127, which state that the aim of achieving a high level of employment must be taken into account in drawing up and implementing the Community's actions and policies.

5. The ETUC calls for the controlled opening of the sectors concerned to be accompanied by democratic regulation including the information, consultation and participation of trade unions and workers' representatives.

6. The ETUC calls on the Commission to carry out evaluations which take account of the general principles for services of general interest, employment levels, quality of jobs, and the views of workers and their representatives before putting forward fresh proposals. Given the effects on employment, working conditions and the risk of creating new monopolies, the Commission should take particular care that these evaluations are carried out in a serious fashion, with the involvement of all the parties concerned.

7. The criteria and principles for services of general interest should also be applied to directives on public procurement. The ETUC calls upon the Commission to avoid further delay in the publication of its communications on the social and environmental aspects of public procurement. The ETUC also calls on the Commission, the European Parliament and the Council to take account of its position “Public procurement in the European Union” (resolution adopted by the ETUC Executive Committee on 15-16 December 1998), when revising the public procurement directives, as well as the Lisbon employment strategy. Consequently, the selection criteria of the public procurement procedure should be revised in order to make it possible to secure the observance of a “fair labour standards” clause, including respect for the collective agreements in force, equal opportunity, non-discrimination and compliance in general with EU social policy objectives as well as the policies for sustainable growth.

Executive Committee, 25-26/10/2000

1. Introduction

One of the greatest misconceptions surrounding child labour today is that it is a phenomenon confined to the developing world. The fact is that it exists not only in the developing world, but also here on our own doorsteps, in Europe.

In April 2000, ETUC Youth held a seminar on Child Labour in Europe, whose purpose was to explode some of the myths which surround child labour in Europe, before identifying a number of key areas where the trade union movement can and must play a role.

2. Causes and forms of child labour in Europe

2.1. The ETUC acknowledges that a number of factors have been put forward to account for the existence of child labour, which include the following:

- Poverty
- Consumerism
- Demand
- Transition to a market economy
- Culture and sociology

2.1. In both Western and Eastern European countries, some of the worst forms of child labour include commercial sexual exploitation, sexual and physical abuse of child workers, exploitation of domestic (migrant) workers, child trafficking, employment of children under hazardous conditions, and problems of street children.

In the CEEC's, the transition to a market economy, increasing poverty, and the restructuring of the welfare system have made economic exploitation of children more likely and has been reported in many of these countries.

While child labour affects many children in Europe, differences have been noted between the extent of child labour among European nationals and non-nationals/ immigrants living here.

On the other hand, large numbers of European children work because they want to work and who, successfully or not combine school and work, being both students and workers at the same time, working for their consumer desires.

3. Lisbon Conclusions

The Conclusions of the Council (Employment and Social Policy) of 6 June 2000 called for steps to be taken to make a decisive impact on the eradication of poverty. This is to be done by setting adequate targets to be agreed by the Council at the end of the year (paying particular attention to the need to mobilise a set of relevant policies with special consideration of the most underprivileged and/or vulnerable groups in society).

According to the ETUC, it is clear that child labourers in Europe are amongst our most vulnerable groups in society and we, as a trade union movement, have a duty to fight for the rights of these children. For years, trade unions across Europe have been to the forefront of the struggle to stop child labour. While undoubtedly, great success has been achieved in many countries, too many children in Europe are still denied their rights. In the new millennium, the ETUC must renew and intensify its activities in the fight against child labour.

4. Strategies for action

The ETUC recognises that child labour in Europe is a huge and complex problem, the combating of which requires a multidimensional approach. It therefore supports actions to be undertaken in the following areas:

4.1. Need for more information and reliable data

The economic exploitation of children is a serious problem in Europe, and it is occurring in most - if not all - countries to some degree, mainly in the informal and agricultural sector. Much if not most of European child labour has not yet been documented properly. There is a compelling need for further research in this area as well as a strengthened political commitment to eradicating the problem.

Among the first steps to be taken is to properly define the priority issues of child labour in each European country and to identify the key problems for action through proper appraisal. The ETUC strongly supports all affiliates who are in the process of doing this and call on others to undertake this task with the utmost urgency.

The ETUC also calls on the European Commission, the European Parliament and other European institutions, in co-operation with the ILO, UNESCO and other organisations dealing with the issue of child labour to focus greater attention on the plight of European child labourers and gather more definitive information as a first step to helping overcome the problem.

4.2. Implementation and enforcement of existing legislative instruments

Legislation, which is not properly enforced and monitored is an ineffective tool for combating child labour. As a trade union movement, it is our responsibility to remain vigilant and act as watchdogs across Europe, to ensure that the legislation is implemented at all times. The ETUC calls for the

- Ratification and full implementation of ILO Convention 138 - Minimum age for access to employment. Nearly all European countries have ratified this Convention, most recently Turkey (30/10/98). However, incomprehensibly, Austria and three other states (Switzerland, Latvia and the Czech Republic) have not yet done so. Despite ratification, many countries, including some in Europe, do not fully respect this principle (often falling a long way short).

- Ratification and full implementation of ILO Convention 182 on the worst forms of child labour (1999) within the shortest possible time frame. It would be appropriate to campaign for all the countries across Europe - without exceptions - to ratify this Convention and take appropriate measures at national level: increased workplace inspections, harsh sentences for exploiters, access to education, general social progress, etc.

- Full implementation and transposition of Council Directive of 22 June 1994 on the Protection of Young People at Work

- Full implementation of the Council of Europe's Revised Social Charter which explicitly states that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education.

Many Western Countries have already ratified the Revised Charter, and an increasing number of CEEC's are ratifying the 1961 Charter. However, countries which have ratified the charter are permitted to exempt themselves from certain provisions. Thus article 7.1, the minimum age for employment, has not been accepted by Austria, Denmark, Germany, Hungary, Iceland, Ireland, Norway, Poland, Turkey or the UK!

4.3. European Strategy on Social Inclusion

A common explanation for the persistence of child labour today and for low levels of participation in education is that children are forced to work because of family poverty. In a number of instances children can contribute up to as much as 20-25% of the family income. ETUC fully supports the European strategy on social inclusion and insists that proposals are developed to mainstream young people and children into these programmes.

4.4. Education

Education is universally recognised as a key solution to eliminate child labour. Furthermore, access to a proper education is a fundamental right of every child. In countries where the educational provision is weak, improvement in education may bring about a decline in the extent of child labour. This could be done by providing more and better education facilities, but particularly by making the curriculum more vocationally appropriate. Systems which combine education and on-the-job training for young people would also be beneficial, granting young people the opportunity to acquire economically useful skills.

The problems of absenteeism and drop-out levels in schools must also be tackled. ETUC calls for stronger links to be developed between labour inspectorates and schools as part of the efforts in tackling the problem.

Special attention must be paid to the needs of children from the poorest and most marginalised communities in Europe, including recent immigrants, if those children are to feel welcome and to flourish within the school system.

5. Internal Trade Union Action

The ETUC calls on its affiliated organisations to:

- Recruit all young workers who are working legally within the terms of the relevant ILO Conventions and EU Directive. For those engaged particularly in the worst forms of child labour, efforts must be made to enable them to move out of the damaging work and into appropriate education or training or, depending on their age, into non harmful work.
- Seek to replace each child labourer by an unemployed adult;
- Include clauses prohibiting child labour in collective agreements and organising publicity campaigns naming companies using child labour - “Name and Shame Campaigns”;

- Highlight the paradox between jobless youth and school children in employment;
- Insist that the scope of labour inspectors across Europe is strengthened, with more resources to carry out their tasks.
- Recognise the role of trade unions in organising and informing people, including young people, of their rights
- Push for an agreement between ETUC and UNICE banning the use of child labour in Europe.

Executive Committee, 13-14/12/2000

1. The ETUC Executive Committee takes note of the work undertaken by the Committee for the Coordination of Collective Bargaining since its establishment at the ETUC 9th Congress and it confirms the importance of developing strategies for the coordination of collective bargaining at European level.

2. The Executive Committee welcomes the guideline proposed by the Committee for the Coordination of Collective Bargaining to further such strategies and which is described in detail in the attached paper. It support the three objectives of such a guideline, namely:

- to have a general indication on wage bargaining which comes from trade unions at the European level in order to respond to the existing guidelines coming from the Commission (Broad Economic Policy Guidelines) and the ECB, and in order to influence the Macroeconomic Dialogue.

- to avoid social and wage dumping and wage divergence in Europe, as this could lead to a deterioration of the social climate and could delay the social convergence of the Member States.

- to coordinate wage claims in Europe, particularly in the Single Currency area where pay is now easily comparable and also to encourage an upward convergence of living standards in Europe.

3. The Executive Committee notes that the guideline is built around a flexible formula which encompasses inflation and productivity, plus, if necessary other quantifiable determinants, that will allow for a common analysis and evaluation of the results of collective bargaining. Evaluation of the guideline will be a multiannual exercise and as such the guideline will gradually also influence the direction of future collective bargaining rounds.

4. The aim of the guideline is to ensure that:

- firstly, nominal wage increase should at least exceed inflation rates whilst maximising the proportion of productivity allocated to the rise in gross wages in order to secure a better balance between profits and wages; and

- secondly, any remaining part of productivity should be used for other aspects in the collective agreements, such as qualitative aspects of work where these are quantifiable and calculable in terms of cost.

- Public and private sector pay should increase in parallel.

5. In the framework of the current priorities of the ETUC and in relation to the new challenges facing the European Union in terms of new technologies and the “knowledge society” as well as the need to combat low pay and reduce inequalities between women and men, the guideline emphasises two aspects of collective bargaining in particular for the forthcoming period: developing the right of all workers to training and life long learning as an investment in the quality of work; and combating low pay and securing equal pay between men and women for equal work and work of equal value.

6. In order to evaluate the implementation of the guideline, the ETUC Executive Committee shall review developments regarding wage increases every year and developments regarding progress on qualitative aspects every two years.

7. Such an evaluation shall be based on a common analysis of the situation in Member States + EEA countries and in the industry federations which shall be carried out by the ETUC Committee for the Coordination of Collective Bargaining with the support of the ETUI. Affiliated organisations in the candidate countries to the EU are invited also to take part in such an exercise.

THE APPLICATION OF INTERNATIONAL CORE LABOUR STANDARDS IN EUROPE

Executive Committee, 13-14/12/2000

1. The Executive Committee has taken due note of the progress made in the implementation, in Europe, of the International Labour Standards (ILO) and the European Social Charter (Council of Europe).

It calls upon all organisations belonging to the ETUC to maintain constant awareness of the application of these social standards.

In the context of globalisation, priority must be given to reinforcing universal (ILO) and Pan-European (Council of Europe) social standards in order to contribute to the social regulation of the economy and to ensure a solid base of identical social rights for all workers.

2. The Executive Committee therefore calls on all ETUC member organisations to ensure the ratification and implementation of the constitutive Conventions of the ILO Declaration of Fundamental Principal Rights at work (1998)

These fundamental standards must be real factors in all internal and external policy-making of the European Union, its Member States and other European states, and especially in the association or co-operation agreements concluded between the European Union and third countries.

We must continue to focus our efforts on ensuring that these Conventions are applied in all the subsidiaries of multinational economic and financial groups, with the ILO Declaration and the OECD Guidelines on multinational companies being also taken into consideration.

3. The Executive Committee has also taken note of the situation with regard to ratification of ILO standards and the European Social Charter in the European countries where ETUC organisations are present.

There are serious shortcomings or worrying delays in the progress achieved with regard to the application of these rights, notably:

- The non-ratification by numerous EU Member States of ILO health and safety standards.
- The non-ratification of other ILO standards of priority interest for certain categories of workers.
- The non-ratification of important Council of Europe texts, in particular:
 - The Revised European Social Charter.
 - The collective complaints system
 - The European Social Security Code.

The ETUC organisations are called on to resolutely and regularly lobby the public authorities of their country (Government and Parliament) to encourage the speedy ratification of these texts.

In addition, priority should be given to the standards concerning:

- migrant workers,
- working women,
- workers from developing countries.

It is important to ensure that these standards are given the necessary universal (ILO) or Pan-European (Council of Europe) political and legal weight.

In a period where there is pressure from employers and certain governments to dilute the ILO system of standards, especially as regards the supervision of application of these standards, the trade union movement must remain extremely vigilant.

4. The Executive Committee urges all its member organisations to take all steps necessary to ensure that these rights are fully known and used.

Information, training and assessment activities must be continued.

The ETUC Secretariat must use tools such as the Net-lex network to provide continuous monitoring of not merely the fulfilment of national commitments but also of the consistent and complementary nature of the three systems of standards (ILO/Council of Europe/EU).

To that end, the Executive Committee recommends that ETUC member organisations take such action as may be needed to ensure that a tripartite structure (by analogy with ILO Convention 144) is set up in each country on the most appropriate footing to provide systematic monitoring of the coherent implementation at national level of the international social standards (ILO/Council of Europe/EU). In its action, the ETUC will continue to co-operate with ICFTU and the WCL.

5 The Executive Committee welcomes the progress which has been achieved in certain areas, at European level, thanks to trade union action carried out in accordance with the Resolution of the ETUC Congress in Helsinki. That is particularly true as regards:

- The European strategy in favour of employment and against social exclusion.
- Progress towards a European system of collective relations, despite the hostility or reservations of European private sector employers.
- The Charter of Fundamental Rights adopted in Nice.

The ETUC and its organisations have this year shown, with the demonstrations in Porto and Nice, that although these measures do constitute progress, they are not enough to compensate for the social and democratic deficits of the European integration process.

Brussels, 14/12/2000

The Executive Committee of the ETUC is deeply concerned at reports that the framework Directive on information and consultation of workers is to be omitted from the agenda of the Social Affairs Council on 20 December, following pressures by a small minority among the member States.

Mass restructuring and closures of plants, exemplified by the General Motors decision this week taken without any consultation of the workforce - particularly in Britain - demonstrate once more that proper standards on information and consultation must be applied to all companies operating in the Union.

The Executive Committee of the ETUC calls on the French Presidency to ensure that the Social Affairs Council acts now to meet the legitimate demands of European workers and their unions, to tackle this issue now.

THE FUTURE OF THE UNION



Executive Committee, 15-16/06/2000

1. Introduction

This Inter-Governmental Conference (IGC) is addressing in particular the very vital challenges of making the European Union ready for enlargement and of bringing it closer to its workers and citizens.

Although the constitutionalisation and restructuring of the EU treaties is not on the agenda as such, this IGC nevertheless concerns first and foremost the foundation of EU cooperation rather than changing the content in terms of legislative competencies on specific policy areas.

It is correct to say that this IGC, which is expected to conclude at the EU summit in Nice in December 2000, is dealing with the left-overs of the last IGC in the sense that it focuses on further completing the development of the foundation of the EU on fundamental rights and on reforming the institutions and the decision-making procedures. In preparing the EU for enlargement and bringing it closer to its workers and citizens, it is vital that this reform changes the foundations, making European values more visible through the incorporation of fundamental rights, particularly trade union rights, and putting in place more transparent, democratic and efficient decision-making procedures and institutions.

This implies making majority voting the general principle for legislative and Single Market-related issues and applying the co-decision procedure, thus extending the role of the European Parliament.

It will likewise be important to up-date and streamline the Treaty provisions designed to promote effective economic coordination and governance in order to give effect to the Lisbon Summit decisions, especially as regards the function of the annual Spring European Council to adopt the principles and priorities of the EU's economic and social policies.

ETUC further refers to the importance to have the Charter on Services of General Interest (ETUC-CEEP joint proposal) included as a protocol in the Treaty.

Preparing for the future involves having a Treaty which ensures a dynamic EU, able to adapt - without necessarily first convening an IGC - to meet the continuous developing demands to fulfil its role of maintaining peace, stability, democracy, economic development and welfare in Europe and at global level.

2. The incorporation of Fundamental Rights in the EU Treaty

Bringing the EU closer to its citizens requires political, civil, social and trade union rights to be fully recognized by the Union and enshrined in the Treaty. The Cologne summit correctly stated that the protection of fundamental rights is a founding principle of the Union and an indispensable prerequisite for her legitimacy. The recent period has illustrated the importance of this in several ways.

ETUC has submitted a concrete proposal building upon rights in existing international instruments as well as upon EU specific rights such as trade union rights and rights of information, consultation and participation; likewise, ETUC is campaigning jointly with the Platform of European Social NGOs on the basis of a joint campaign paper. The proposals entail a legal impact at national, EU and European level.

ETUC notes with satisfaction the clear support expressed by the European Parliament (EP) and the Committee of Regions (CoR). ETUC is closely following the work of the EU Charter Convention and considers it vital that the Convention submits a final proposal in time to be integrated and decided upon at this IGC.

ETUC stresses the importance of including the fundamental rights issue on the agenda of this IGC as it should be considered an indispensable part of the present Treaty reform process, with the objective of instituting legally binding rights. Having fundamental rights incorporated in the Treaty is a core issue in the preparation of the EU for enlargement.

ETUC underlines that a lack of recognition of fundamental trade union rights, for example, will inevitably hamper development and put support for the EU project at risk, especially in view of the massive ongoing industrial restructuring process. Trade union rights and the other EU specific rights are important for an optimal functioning of EU cooperation, especially as regards the Single Market and European Monetary Union and achieving the objectives and principles set out in the treaties. The Single Market is not complete without, so to speak, a “fifth freedom”, respecting the right for trade unions to act without the limitation of national borders. The recognition of trade union rights is logical in view of the recognized role of the social partners in the Treaty in negotiating European agreements, and it would facilitate the development towards a European industrial relations system, in harmony with the values of the Member States.

Consequently, it must be ensured that the present Treaty provisions are compatible with having trade union rights incorporated. In view of the current discussion, ETUC underscores that if the Treaty of the European Communities (TEC) Art 137, para 6 in particular is considered to constitute an obstacle in this respect, it must be amended or if necessary, deleted.

The fundamental rights to be incorporated in the Treaty should also include the principle of gender equality as an unconditional and basic principle of the Union.

3. Social Market Economy and European Employment Strategy

The inclusion of the Employment Title in the Amsterdam Treaty has been a positive step forward, together with the start-up of the Luxembourg common employment policy strategy; the Cologne Summit European Employment Pact decision initiating the Macro Economic Dialogue was a further step in the right direction and the ETUC has also welcomed the Lisbon Summit decision on the European Employment strategy and the coordination of the different policy strategies and processes to bring about the necessary policy mix. While it is still too soon and not the appropriate moment to revise the monetary policy chapter of the Treaty, ETUC nevertheless considers that to give effect to the Lisbon Summit decisions, the Treaty provisions designed to promote effective economic coordination and governance should be up-dated and streamlined to consolidate the current development.

ETUC proposes defining in the Treaty that the function of the annual Spring European Council should be to adopt the principles and priorities of the EU's economic and social policies, and that on the bases of these principles, the Summer and Winter European Councils should then adopt the specific broad economic policy and employment guidelines.

Furthermore, to ensure consistency between the different procedures, the Treaty (TEC Art 99) should be amended to ensure that the employment considerations also become an integral part of the broad economic guidelines on the basis of the existing and Treaty-based employment guidelines. Likewise, TEC Art 99 should be amended so that the Council shall draft the broad economic policy guidelines on the basis of a proposal from the Commission (instead of on the basis of a recommendation).

ETUC endorses the proposal of the EP, stressing the importance of defining the nature and meaning of the "social market economy" and its call for the IGC to include it in the Treaty (in particular in the TEC Art 4, 98 and 105).

4. Services of general interest

ETUC and CEEP have drafted a “Charter on Services of General Interest” which is proposed to be included as a protocol in the Treaty linked to TEC Art 16.

The main objective of this Charter is to underline that all Citizens in all European regions should be guaranteed equal access to affordable, high quality services of general interest.

ETUC considers such a Charter highly important in view of the Single Market and the ongoing European integration process, also taking into account the decisions at the Lisbon Summit on the social inclusive employment and economic strategy.

5. Decision-making procedures

In order to be efficient, it is indispensable for the Union to reform its decision-making procedures. The need already exists with a Union of 15 Member States and proportionally, the problems would be aggravated further with enlargement.

ETUC agrees with the IGC contributions submitted from the various institutions and Member States heading in the direction of making majority voting the general principle for legislative and Single Market-related issues, while reserving unanimity voting for constitutional and quasi-constitutional issues, i.e. including amendments of the Treaty, the defining of EU competencies and the inter-institutional balance or enlargement of the Union. It is clear that the veto right linked to unanimity voting has become an unacceptable de facto blocking factor preventing the Union in moving ahead in establishing EU provisions within its competencies. Not least, this has become an obstacle in developing the social dimension. In an enlarged Union, this problem would be further aggravated. In this situation, the real discussion in the IGC will be on the application of the subsidiarity principle rather than on decision-making principles.

ETUC therefore recommends that, for example, majority voting becomes the general rule of social policy, the European Employment Strategy, environment policy decisions and for decisions on minimum levels for corporate, capital and environmental taxation.

ETUC underlines the importance of making the decision-making procedure more efficient whilst making it more democratic. The function of the EP as an instrument of democratic control on EU policies and decisions, must be enhanced, as must its legislative power. ETUC therefore endorses the proposals to link, as a general rule, majority voting with the co-decision procedure (TEC Art 251).

It is also important to improve the decision-making procedures in securing transparency, which is a decisive factor for achieving a Union closer to its citizens by involving them in the process. The Council, when sitting in its legislative capacity, must be fully transparent and open to scrutiny. In general, the principle of transparency and public access to information and documentation must cover all EU Institutions and exemptions must be specified and strictly defined.

ETUC regrets the confusion and problems caused by the unclear formulation in the Amsterdam Treaty, TEC Art 139, para 2, with respect to which legal instrument is to be used in implementing European Social Partner agreements by the the Council. Given the proposal by the EP in its IGC opinion on this issue, ETUC requests clarification on the procedure to be applied. ETUC underscores the crucial importance of respecting the independent role and responsibilities of the social partners, as defined in the Treaty. ETUC is of the firm opinion that the Council, when implementing an agreement, should, as has been done so far, do this without amending the agreement.

6. Closer cooperation (flexibility)

ETUC has been paying close attention to the proposals dealing with extending the possibilities of closer cooperation. In view of the future circumstances in an enlarged Union, ETUC does not rule out in general that the Treaty should give Member States the option of closer cooperation on specific and well-defined policy areas. Although the Schengen agreement and EMU are being mentioned as positive examples of closer cooperation, especially in an enlarged Union, this should only be used as a last resort and only if basic principles and conditions are being respected.

It would be detrimental for the future of the Union if it takes place at the expense of progress regarding integration and cohesion or if it hampered the development of the Social Union in parallel with the Economic and Monetary Union.

ETUC would oppose Treaty amendments which put the institutional identity or legal order at risk; closer cooperation (flexibility) should in any case not include the Single Market, the European Employment Strategy or the Social Policy chapter. ETUC is carefully stating this reservation to underscore that mixing up a closer cooperation mechanism with the unacceptable but also used opt-out mechanism from core policy areas such as social policy, should be avoided.

ETUC is likewise strongly opposed to any kind of so-called partial membership arrangement in the ongoing enlargement process (not to be mixed up with traditional transition periods or supportive measures of the pre-accession strategy).

7. Reforming the EU institutions

ETUC notes the intense discussion revealing the strong national interests concerning the numbers of representatives and members of the different EU Institutions. From a European point of view, ETUC would like to stress the need for the Union to have efficient and democratic institutions, especially in view of the reality of a Union almost doubled in size, in terms of the number of Member States.

It will be even more important in the enlarged Union of the future, to secure the independence and competencies of the Commission as a collective body in its role as initiator and in safeguarding the Treaty.

Irrespective of the different models for reforming the weighting of votes in the Council (redistribution of votes or double majority voting), it is highly important that the European citizens in all regions consider decisions taken by the Council as being legitimized in the way they are taken.

The Commission unexpectedly triggered off a discussion on reforming the Economic and Social Committee (ECOSOC) in its IGC opinion, without any prior consultation with the parties concerned. While recognizing the relevance of discussing the reform of the ECOSOC too, ETUC is very much opposed to the ill-placed proposal of the Commission which should not form the basis for possible discussions in the IGC.

ETUC recommends that ECOSOC is treated on an equal footing with CoR as regards numbers of members and in competencies. ETUC insists that the Treaty obligations to consult ECOSOC are maintained and that ECOSOC continues to be composed of workers and employers representatives and in the same proportion as at present. ETUC however proposes that representatives of the recognized European social partner organisations also be appointed.

A discussion has also been going on for some time within ECOSOC on the relationship with, and integration of, the European level NGO and civil society organisations in the work of the ECOSOC.

ETUC proposes (in relation to the present three-group structure of the ECOSOC) that the recognized national and European NGO and civil society organisations constitute the so-called Group III in the future.

In view of the proposals submitted and the broad consensus to reform the European Court of Justice (ECJ), both in the number of judges and a reorganisation of the court system, ETUC would like to highlight the need to reform the ECJ system as well, in order to adapt it to the developments as regards the role of the social partners at European level, including as regards rule-setting and the increased Community social policy law body. Several highly important cases dealt with by the ECJ (for example the Borsano case C-2/97, the UEAPME case T-135/96 and the Albany case C-67/96) underscore the untenable situation in continuing to exclude the trade unions from the possibility of intervening in the ECJ procedure or having access to the relevant information.

The ETUC therefore proposes the following proposals to be included in the ECJ reform as a general right.

- 1.** The European social partners can directly and indirectly intervene and are therefore recognised as “privileged applicants”, giving them access to the relevant information on the proceedings and with the right to actively intervene (e.g. by way of written observations). (TEC Art 37 of the Statute of the Court (protocol B to the Treaty))
- 2.** By integrating a new article in the Treaty provisions on the Court of Justice, the European social partners should be consulted and be able to submit written observations in cases brought before the ECJ concerning community law incorporating EU social dialogue framework agreements incorporated in Council Decisions.
- 3.** The European social partners should be granted the right to submit cases to the ECJ concerning EU institutions, which have failed to fulfil or infringe a Treaty obligation. (TEC Articles 230 and 232)

Furthermore, concerning cases relating to the implementation and interpretation of the social *acquis communautaire* and cases in other areas of law which, however directly or indirectly, affect workers and trade union rights, the ETUC believes that consideration should be given to how these cases could be dealt with by a separate labour and social court section within the Court of First Instance, whereby an appeal before

the ECJ should be possible under certain conditions. It should be composed in a tri-partite way, as is the tradition in several member states. An independent judge appointed by the ECJ, will be assisted by experts representing and appointed by the European social partners. (Such a competence would substitute their “privileged applicant” status in cases dealt with in this court section).

Finally, the ECJ reform should also envisage the development of the European industrial relations system which includes the negotiation and concluding of so-called voluntary European social partners agreements not implemented by a Community Directive, but by the social partners themselves. Disputes on the implementation, interpretation and application of these agreements will be brought before the labour and social court section that will thereby function as an arbitration body.

8. New Community competencies

As the analysis of the use of TEC Art 308, which was submitted to the IGC, shows, it is recommended to include a specific Community competence on energy policy in the Treaty. It is likewise appropriate to strengthen the Community competencies in the field of food safety, as proposed by the Commission.

9. Concluding remarks

ETUC appreciates the significantly improved public access to documents submitted to this IGC and expects this new openness to be practiced throughout the negotiation process. Transparency is a highly important factor in bringing the Union closer to its Citizens and securing support for the European project. Following this objective, the CoA, ECB, EIB and ECJ should also be included in the scope of TEC Art 255 together with the EP, Council and Commission.

ETUC likewise supports the EP proposal to convene an inter-parliamentary conference before the conclusion of the IGC, to discuss the principal challenges of European integration over the coming decade. However, ETUC considers that trade unions and social partners should also be invited to such a conference.

Although the discussion on the structure of the Treaty and on how to cope with future reforms is not formally on the agenda for this IGC, ETUC nevertheless considers it essential that a step in this direction is being envisaged and built into the final decisions. Such a reform is highly important, especially from the perspective of having an enlarged and more diverse Union, but also for making the Treaty more understandable for citizens. The ETUC endorses the need for a genuine Constitution reflecting the development of the Union according to a federally balanced scheme (simultaneously practicing subsidiarity, complementarity and solidarity). Such a new “European Constitution” should be the fruit of a “Constitutional pact” which reflects the whole of European society and its citizens.

This perspective and aim has been highlighted in several contributions to the European public political debate. In addition, the high level “Dehaene” group followed by the European University Institute in Florence (EUI) have, at the request of the Commission, already made proposals as regards splitting the Treaty into two parts: a basic Treaty with the constituting principles, and an operational part with the policies. In view of the concrete “Basic Treaty” proposal from EUI, the ETUC underlines that the present Treaties constitute one entity reflecting the progressive evolution of the European integration project. Apart from the relevant question as to the added value at the present moment of a simple reorganisation of the Treaties without amending them, the EUI proposal highlights that it will not be a simple task to split the Treaties into two while adequately retaining the global significance and thrust of the Treaties together as a whole. ETUC has severe reservations about the EUI proposal in this respect and would not recommend undertaking a consolidating exercise of the “old” treaties in parallel to the ongoing IGC preparing the new treaties. Instead, as mentioned, the IGC conclusions should envisage the follow-up steps including the proper procedure involving all stakeholders.

The EUI proposal proves how essential it will be to have fundamental rights, including trade union rights, incorporated in the Treaty in a legally binding manner at this IGC. It will constitute an important building block in view of a structural reorganisation of the Treaties. It is one more argument to support why the fundamental rights issue cannot be postponed to the next IGC.

Executive Committee, 25-26/10/2000

1. ETUC acknowledges the Convention proposal for an EU Charter as an important step in advancing a social and citizens' Europe. However, the struggle must go on to completely achieve this goal. The final Charter contains improvements owing to the campaign and ETUC's reaction to previous, initially unacceptable proposals. ETUC's strategic objective remains a fully-fledged and legally binding Charter, enshrined in the EU Treaty. For ETUC, the content of rights and the status of the Charter are intrinsically linked.

2. ETUC welcomes the fact that the EU Charter reflects the indivisibility of the political, civil, social and trade union rights. ETUC notes with satisfaction that its proposal for EU priority rights for inclusion are now, to a large extent, listed in the EU Charter, including trade union rights, rights of information and consultation, equality and non-discrimination, ban on child labour, health and safety at work, as well as freedom of movement. On the other hand, ETUC regrets that other rights included in the Revised European Social Charter, such as the right to a minimum income were not taken on board.

3. Although the selection of social rights included reflects a narrow interpretation of the existing rights, and the social rights are formulated in a way that limits their reach, the EU Charter constitutes an added value to the present situation. The explicit recognition of trade union rights, including at EU level, can remedy the present unclarity. It is especially important in view of the Single Market and the economic integration attained that the Charter recognises trade union rights, also at the EU and cross-border levels.

4. ETUC therefore regrets all the more the apparent shortcomings when it comes to respecting the right for trade unions to act without the limitations of national borders; this has to be remedied in the follow-up procedure to ensure trade union rights as a “fifth freedom” of the Single Market, in full and without restrictions, in a way, however, which fully respects national collective bargaining systems.

5. ETUC deplors the fact that the informal Biarritz summit did not agree to take up the issue of the immediate integration of the EU Charter in the IGC, nor to express a recommendation as regards the future status of the EU Charter, or to propose a clear follow-up procedure.

6. ETUC stresses the importance of ensuring the legally binding incorporation of the EU Charter in the EU Treaty; a solemn political proclamation will obviously fall short of meeting the objectives and the expectations raised by the Cologne summit initiating the drafting procedure. It is the credibility of the European Council that is at stake. A political declaration outside the Treaty could easily be seen as a negative signal by the workers and citizens when it comes to a real recognition of the EU based upon common values and given the same priority as economic cooperation. Such a situation could even be seen as a setback compared to the present Treaty references to the Council of Europe instruments and the Community Charter of 1989.

7. The Convention drafted the EU Charter “as if” it is to become legally binding and therefore carefully scrutinized its formulation. ETUC welcomes the clear statements made by the EP and the Commission in this respect and calls on them to support the declaration of the EU Charter at the Nice summit, complemented by decisions giving effect to the EU Charter.

8. The Nice European Council should at least decide upon:
first, accepting that the aim will be to integrate the rights in a legally binding manner;
second, taking a decision on the procedure and the calendar which leads to this end;
third, making a reference in the TEU Article 6, para. 2, taking the elements in paragraph 5 of the Preamble of the EU Charter;

fourth, integrating a new paragraph into TEC Article 136 concerning trade union rights (the right of freedom of association, collective bargaining and industrial action) based upon Articles 12, para. 1 and 28 of the EU Charter.

9. The discussions in the Convention have also reconfirmed and highlighted very clearly the dynamic nature of fundamental rights. The inclusion of new rights in the field of biotechnology exemplifies this. One element would therefore also be to decide on a monitoring procedure in view of an evolutionary perspective. Such a procedure would then also be an opportunity to review the EU Charter for further improvement.

10. In this respect, ETUC strongly calls upon the Member States to ratify the Revised European Social Charter of the Council of Europe.

11. ETUC underscores the prime importance of having fundamental rights, including trade union rights, effectively recognised by the EU, especially in light of the ongoing process of deepening and widening EU integration.

12. ETUC stresses the link between the EU Charter and the social agenda when it comes to implementing the programmatic rights. The adoption at the Nice summit of a strong and targeted “Social Agenda” constitutes an important element in giving effect to these rights.

Executive Committee, 13-14/12/2000

The ETUC regrets the lack of ambition of the Treaty of Nice. This is the inevitable result of negotiations being driven by a relentless and narrow defence of national interests, rather than by a vision of the kind of integration that Europe needs for the future.

The ETUC trusts that the Treaty of Nice will at least allow the obstacles in the way of the enlargement of the European Union to be lifted, so allowing the historic objective of European unification to be met.

However, this has been obtained at the price: institutional changes have been made which do nothing to improve the openness and efficiency of the decision making processes, let alone to strengthen them which was the initial objective.

The ETUC deplores in particular the absence of genuine progress in the area of qualified majority voting, especially with respect to social, fiscal and immigration policy. In fact, the new procedures risk making it even more difficult to obtain qualified majorities in the Council of Ministers, and making it even easier to block decisions.

The ETUC condemns the treatment given to the Charter of Fundamental Rights. Due to the opposition of various governments, which were determined to try to minimise its impact, the Charter was simply signed by the Presidents of the Parliament, the Council of Ministers and of the Commission, instead of being solemnly proclaimed as had previously been agreed by the European Council in Biarritz.

The Nice European Council has however made possible progress in a number of social areas of importance to the ETUC, namely with regard to the European Company, the Social Agenda, and services of general interest.

The ETUC welcomes the decision of the French Presidency to convene an extraordinary Council of Ministers before the end of the year to approve the Directive on the participation of workers in the European Company as well as the Directive on Information and Consultation.

With regard to the Social Agenda, the ETUC insists that effect be given to it immediately in accordance with the timetable laid down.

With regard to services of general interest, the ETUC insists on the need for a regulatory framework to be established at the European level as proposed by the ETUC and CEEP in their public services charter.

In view of the role the European Social partners are called upon to play in the development of European employment and social policies, the ETUC insists on a change of attitude from UNICE and agreement to a medium-term programme for social dialogue.

The Nice European Council, in highlighting both the urgent need for an in-depth debate on the future of the European Union as well as the grave shortcomings in the current IGC-method for making treaty revisions, set a new 'rendez-vous' for 2004.

The ETUC believes that a constitutional pact is required which will establish the objectives, the role and the structure of the Union. The Charter of Fundamental Rights, strengthened especially with regard to social and trans-national trade union rights, has to be an integral part of such a pact.

The ETUC knows that the full realisation of its demands for a Social Europe is intimately linked to progress also being made in this debate on democratising Europe. The ETUC and its affiliates have accordingly resolved to prepare a major contribution to the Laeken summit in December 2001.

The huge success of the ‘Euro-manifestation’ in Nice underlined the ETUC’s legitimacy as the representative voice of working people, and the ETUC is resolved to put all its weight behind the achievement of a political, democratic, social and citizens’ Europe.

16 POST-NICE ENLARGEMENT OF THE EUROPEAN UNION

Executive Committee, 13-14/12/2000

1. The European Trade Union Confederation reaffirms its belief that enlargement is nothing if not a unique historical opportunity to unite the peoples of Europe around fundamental democratic values. It will ensure peace and political stability in Europe and advance economic and social progress as well as the improvement of living and working conditions.

2. EU enlargement is entering a crucial phase following the Nice European Council's decisions on institutional reforms and the European Commission's mid-term review on the progress of negotiations. The European Trade Union Confederation wants the first wave of membership to have taken place before the next European Parliament elections.

3. The ETUC acknowledges that all applicant countries have laid down democratic institutions, even though the process of economic change continues to call for great sacrifices from much of the population and has made way for serious social problems in its wake which now need to be addressed with determination. This proven ability to develop democratic conditions is also rooted in the clear prospect of joining the European Union. The prospect of accession to the European Union has also stepped up and further developed the process of change. The European Union and the Member States must spare no effort to avoid any unwarranted delay which would foster disillusion in the applicant countries.

4. The trade unions have had a major hand in stabilizing the applicant countries and strengthening their prospects for EU membership. This must be clearly recognised. They have also developed their own potentials and abilities for constructive action. Meanwhile, governments in most of the Member States are informing and consulting the trade unions as the negotiations move forwards. The ETUC calls on those governments which have so far done little to inform and consult trade unions to change their policy for the sake of a successful outcome to the enlargement process. The ETUC calls on the European Commission to keep hammering home to these governments that involvement of the social partners in all issues of concern to them is an integral part of the European model. Enlargement can only be successfully carried through if it has effective public support in the Union and the applicant countries. The key to that is better information and greater involvement by trade unions at European and national levels.

5. The establishment of a real social dialogue of collective bargaining and of social concertation practices is cardinally important. It is a question of unavoidable requests that must find their place in the on-going negotiations. The ETUC welcomes the European Commission's critical judgement of the insufficiency of structured and effective social dialogue in some countries. The ETUC and its member organizations in the applicant countries will keep close track of and assess progress in the social dialogue. For its part, the ETUC will make efforts to involve applicant country trade unions more closely in the European social dialogue and in negotiations whose outcomes will form part of the Community acquis.

6. The ETUC regards the European social model as a king-pin of the enlargement process. It is not just a question of Community legislation, but also benchmark documents like the Charter of Fundamental Rights of the Union, the Council of Europe's revised Social Charters, the 1989 Charter of Workers' Rights, the Recommendations on social security, and the Nice Social Agenda. Over and above the differences in Member States' social protection systems, they enshrine a string of shared principles which are part and parcel of the European social model. The essential principle is that of solidarity as well as the participation of

the Social Partners in the setting up and running of such systems. The principles of the welfare state underpin the European social model and so must be considered as building blocks of the process of change in the applicant countries. Taking over the Community acquis alone will not address this demand. The ETUC and its member organizations will oppose every attempt by governments in the applicant countries to use enlargement as an excuse for reorganizing social protection systems which is contrary to these principles.

7. The transfer of Agenda 2000 funds is a key aspect of the pre-accession strategy. The European Commission and applicant country governments should make the social dimension a priority. The economic growth in evidence in nearly all the applicant countries must not benefit employment alone, but must also help strengthen social protection systems. Supplementary efforts must be made in cross-border regions, especially on infrastructure and structural policies for regional development and employment promotion through territorial pacts, specific agreements and the extension of the EURES network.

8. Freedom of movement for workers is one of the Internal markets four fundamental freedoms. Studies carried out by the European Commission show that risks to the Member States' labour markets are limited and controllable. Along with the prerequisites for free movement there must be specific measures in border regions, and full transposition of the Community social acquis by the applicant countries. Closing of income gaps is also part and parcel of that. It must be pointed out in this connection that wide income disparities between and even within Member States have not disrupted the labour market in higher-income Member States. Introducing free movement will mainly affect countries and regions bordering on the applicant countries. But these countries' and regions' economies and employment situation benefit most from trade relations with the applicant countries. If transitional periods are unavoidable, they should be as flexible as possible and appropriate to the economic and social situation. The ETUC is adamantly opposed to a selective introduction of free movement for highly-skilled workers, which would undermine the economic potential of the applicant countries.

9. The ETUC welcomes the recent recorded progress in the relations with Turkey and stresses that Turkey is also a candidate country. Turkey has pledged to fulfil the Copenhagen criteria, which includes respect for democratic rights to all extents. On the specific matter of workers' and trade union rights, the ETUC expects the Turkish government to take the necessary steps to come fully into line with international and European standards. The ETUC will continue to support its member organizations in Turkey in their struggle for a more complete democratisation of their country.

10. Finally, the ETUC stresses the need that the European Union act in such a way that countries which do not yet fulfil the preconditions for membership receive the assistance in the preparatory phase to achieve this objective as early as possible.

Executive Committee, 25-26/10/2000

1. The ETUC welcomes with great satisfaction the changes occurred after the elections on September 24. With an overwhelming majority the Serb citizens voted out of office President Milosevic and his regime. The manoeuvres of the regime to manipulate and to falsify the outcome of the elections failed. This was due to a large and peaceful mobilisation of the civil society all over the country. These events are the beginning of the end of a regime that had spread war and state terror in former Yugoslavia and that has ruined Serbia politically, economically, socially and morally.

2. The strong involvement of the independent trade union confederation NEZAVISNOST and the courageous strike of the miners in the Kolubara mine has been decisive for the defeat of the regime. The ETUC congratulates its long-standing trade union partner NEZAVISNOST for its continuous and consequent action for democracy and peace over the last ten years and confirms its solidarity. This solidarity needs in the light of the now starting process of transition and democratisation a new and concrete impetus. The ETUC appeals to the whole trade union movement in Serbia to go on the way of reform and democratisation as a precondition to be able to face the new and difficult challenges ahead.

3. Serbia must find its way to Europe. Europe must find its way to Serbia. The new authorities must comply from the beginning on with the European standards and international conventions. The freedom of association is an essential right for the trade union movement. These rights are actually not respected in Serbia. The ETUC urges the Serb

government to take immediate action and to introduce the freedom of association.

4. The European Union has a specific responsibility for the reconstruction of Serbia. Without unnecessary bureaucratic delay urgent action is needed. Serbia must now find its place in the framework of the Stability Pact for South-East Europe. By anticipation, the ETUC has since September 1999 included NEZAVISNOST in its special task force for the Stability Pact. This co-operation will be strengthened and deepened.

5. The changes in Serbia are at the very beginning. The resistance of the old regime is still considerable. To achieve democracy and to break the economic and financial power of a widely corrupt regime demands ongoing action of the civil society and of independent and democratic trade unions. The European trade union movement, the ETUC and its affiliated organisations all over Europe will support its partners in Serbia. A peaceful solution of the existing conflicts in South East Europe goes through democracy, economic reconstruction and social progress. The ETUC will intensify its action in this respect.