

# UEAPME Position paper on the European Pillar of Social Rights and reply to the public consultation

## Introduction

On 8 March 2016 the European Commission launched a first outline of the European Pillar of Social Rights for a public consultation open until 31 December 2016.

The European Commission proposes a pillar which aims at expressing a number of essential principles currently grouped around 20 policy domains to support well-functioning and fair labour markets and welfare systems; this pillar will be established in the Euro area, while allowing other EU Member States to join on a voluntary basis; it will build on, and complement, the existing “EU social acquis” in the employment and social policy area.

Once established the Pillar of Social Rights should become a reference framework to screen employment and social performance of participating Member States, to drive reforms at national level and to serve as a compass for renewed convergence within the euro area.

## Executive summary:

The European Pillar of Social Rights requires a wide number of clarifications on its aim, nature and scope.

The better integration of economic and social dimensions is a key priority for a fair and inclusive labour market and well-functioning welfare systems since the two dimensions are interdependent.

Current existing diverging developments in Europe are not due to a lack of social policy but to the lack of a business-friendly environment, notably for Crafts and SMEs, insufficient reforms on the labour market and the non-adapted design of social protection systems.

The best way to reach convergence within the EMU and the EU is not through the creation of additional social rights at EU level, but by striving to attain good economic performance as a sound basis to ensure the sustainability of the European social model in each of the Member States.

UEAPME sees the usefulness of a Pillar of Social Rights as a new driver for reforms at national level, based on benchmarks contributing to measuring its impact on economic, employment and social performance as well as on competitiveness.

Without fostering competitiveness, growth and job creation, through notably entrepreneurship including self-employment and an EU ambitious industrial policy strategy, the labour market participation will remain weak and social exclusion and poverty might become a permanent challenge. Any employment and social policy, even of high standard, will not be able to compensate for the lack of growth and jobs.

## I - General comments

- **Taking into account the current economic and social challenges in Europe, UEAPME considers it as a key priority to better integrate economic and social dimensions to enable a fair and inclusive labour market and well-functioning welfare systems since the two dimensions are interdependent. Sound macro-economic policies and effective employment and social policies are essential to foster higher convergence in the EU.**
- The main reasons for current existing diverging developments in Europe leading to unemployment, increased poverty and inequalities, **are not the lack of social policy but the lack of business-friendly environment notably for Crafts and SMEs, the inadequacy of education and training systems to deliver skills needed on the labour market, the lack of or insufficient reforms on the labour market, the wage development not in line with productivity, a too high tax wedge on labour and the non-adapted design of social protection systems.**
- **For UEAPME, the most pressing employment and social priorities are:**
  - **Supporting entrepreneurship, including self-employment** as a major source of jobs
  - **Boosting employment participation**, tackling unemployment, in particular youth and long-term unemployment, thereby reducing poverty,
  - **Enhancing employability** of current and future workforce,
  - **Fostering job creation in the new economy** through higher SME competitiveness and growth.

### **The 20 principles proposed in the Pillar should aim at:**

- having access to the right skills for enterprises competitiveness and workers' employability,
- setting up a renewed flexibility and security concept which ensures the right balance on both sides,
- having effective active labour market policies,
- ensuring sustainable social protection systems and welfare systems that do not discourage taking-up jobs,
- enabling labour taxation essential for making work pay.

## II – Issues to be clarified

### **The Pillar triggers a number of important questions that require clarification:**

- On the aim and nature: since the final aim of the Pillar is not yet defined, the Pillar should not be used to address gaps in the EU social legislation, which is comprehensive enough, but to help Member States to better implement necessary structural reforms to improve competitiveness, productivity, growth and jobs as well as social inclusion.
- On the scope: the Pillar is primarily directed to the 19 Member States of the Euro area, however the social acquis covers all EU Members States. The articulation EMU/EU remains unclear. In order to avoid new

gaps and further divisions within the EU, it is essential to involve all Member States and guarantee a permanent link notably with future members of the Euro area.

- On the competences of the EU and national level: several of the 20 principles presented by the EU Commission related to employment and social policies are of strict national competences. The Pillar should strictly respect the subsidiarity principle and not impose new burdens on enterprises notably SMEs; The Pillar should contribute to necessary reforms of labour markets and of social protection systems, **while respecting national competences, the principle of subsidiarity and the autonomy of social partners**.
- On the possible financial impact: Some of the 20 principles will generate substantial additional costs at national level if they are to be implemented. Such costs should be carefully assessed and avoided in the case of SMEs. Furthermore in depth reflections should take place about the possible ways to cope with them either by reducing them as much as possible or compensating them by additional employment and/or productivity gains. It could also be done in the context of the second phase of deepening the EMU. Under certain conditions such as for Member States to give-up a certain level of sovereignty and accept some clear conditionality rules, UEAPME could support a fiscal capacity of the Euro area to tackle asymmetric shocks but does not support a European unemployment insurance scheme.
- On the role to screen employment and social performance: According to the EU Commission, *“the Pillar should become a reference framework to screen the employment and social performance of participating Member States, to drive reforms at national level and to serve as a compass for renewed convergence within the euro area”*. In the employment and social field benchmarks can be a good tool to enhance convergence as foreseen in a strengthened EMU.

**UEAPME sees the usefulness of the Pillar as a new driver for reforms at national level as long as it builds on and is well coordinated with pre-existing processes and avoids overlaps:**

- The European Semester is the process that defines for each Member State the type of necessary reforms notably in the area of labour market and social protection systems through the adoption of annual Country Specific Recommendations. Benchmarks of the Pillar should feed into this process.
- The Eurogroup work on common principles to reduce the tax wedge on labour and on quality of public expenditures should be taken into account.
- The Better regulation agenda and REFIT exercise should also be integrated in the whole exercise.

### **III - On content and process:**

- The Pillar identifies 3 work streams declined in 20 policy domains: Equal opportunities and access to the labour market, Fair working conditions, Adequate sustainable and social protection
- Not all the 20 policy domains are of the same relevance for social partners and social dialogue. Chapters covering access to labour market and working conditions are of high priority for Crafts and SMEs.

- Several policy domains are of national competence such as wages and minimum income but also social protection systems. In this area, the EU should strictly respect the subsidiarity principle and should mainly contribute to have a clear overview and comparison of national situations.
- UEAPME welcomes the long term approach taken by the EU Commission organised as a wide reflection during nine months with the involvement of key stakeholders. It is important that not only the European but also national and possibly regional levels can feed in the general reflections.

A top down approach should be avoided. **At EU level**, UEAPME supported and appreciated dedicated hearings covering the three work streams together as they are closely interconnected but also overlap to some extent. **At national level**, a stronger focus is needed since the 20 policy domains are for a large part the competence of national level. It is essential therefore to adequately involve national social partners in the debate but also to take into account their contributions in the future reflections.

- On the choice of stakeholders at national level, involving SME organisations, which are not necessarily recognised as social partners should have been part of the process. Many of those SME organisations are very active in major fields mentioned in the Pillar notably in skills and education, integration of migrants in the labour market, entrepreneurship and social cohesion.
- **The aim should be to ensure a good ownership of future outcomes through a bottom up approach involving the right stakeholders at the right level.**

#### **IV - On benchmarks:**

- Benchmarks are important tools for ensuring a certain level of convergence but in a limited number of areas, namely those which have a clear EU dimension and for which higher coordination can bring a real added value to achieve better economic and social outcomes.
- Defining the right benchmarks is essential, but even more important is the way political decisions will be taken and implemented on the basis of the common benchmarks. **Benchmarks should help supporting structural reforms by making the link with the EU Semester and Country Specific Recommendations and not replace them.**

Benchmarks could cover priority areas such as:

- a. Entrepreneurship in order to create more jobs
- b. Employment/unemployment
- c. Active Labour Market policies (ALMP) in order to facilitate access to and transitions on the labour market
- d. Education and vocational training including apprenticeship delivering skills relevant to labour market needs
- e. Social expenditure to ensure social inclusion, underpin growth and jobs and do not endanger fiscal stability
- f. Tax wedge on labour to ensure a job rich recovery

#### **UEAPME proposes a benchmark on entrepreneurs including self-employed which would include:**

- A mapping of the different types of self-employed in the Member States and of their social protection

- A survey on the extent to which access to and inclusion in social protection systems is facilitated and/or encouraged in the Member States for entrepreneurs including self-employed
- An analysis of the extent to which these schemes are taken up by entrepreneurs including self-employed and of the factors having an influence on the take-up.

### Reply to the 10 questions asked in the EU Commission document

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

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

The most pressing economic and social challenges in Europe are low economic growth and low competitiveness, lack of investments, insufficient level of entrepreneurship, unfavourable demographic developments. This in turn translates into a high persisting unemployment rate notably for young people which should be tackled, a wider skills gap and skills mismatch and low activity rate.

Without fostering competitiveness, growth and job creation notably through, entrepreneurship including self-employment and an EU ambitious industrial policy strategy, the labour market participation will remain weak and social exclusion and poverty might become a permanent challenge. Any employment and social policy, even of high standard, will not be able to compensate for the lack of growth and jobs and contribute to creating a fair level playing field all over Europe.

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

The different national employment and social situations can be explained by historical reasons but also by a lack of timely structural reforms notably on the labour market and less economically developed regions. The divergences have been exacerbated by the crisis and at the same time by an increasingly fierce global competition despite the EU support in various areas including through cohesion policy. EU enlargement in 2004 and after, further marked the differences within the European Union.

The EU social acquis contributed to introduce minimum standards in employment and social policies through legislation and to boost a certain convergence of rights but not necessarily convergence of economic, employment and social performances. The European Pillar of Social Rights should therefore be measured by its impact on economic, employment and social performance as well as competitiveness.

In order to come closer together in a Union of 28 Member States, it should be possible to act at the two ends of the spectrum.

This could be for a large part done through **a renewed concept of flexicurity**.

##### 3. Is the EU acquis up-to date and do you see scope for further EU action?

The EU acquis is broadly up-to-date. In the field of health and safety, the new technological developments might need some adaptations. We consider that the Fitness check on health and safety regulations currently undertaken by the EU Commission is the right way forward since it takes into account the assessment of stakeholders.

In this context we would like to repeat that within the REFIT exercise, which aims at assessing the EU legislation, it is important to clearly differentiate between opinions expressed by individual citizens and opinions expressed by highly representative organisations.

#### **On the future of work and welfare system?**

##### 4. What trends would you see as most transformative?

The most transformative trends are **globalisation** inducing more and more fierce competition, technological change due notably to **the digitalisation of the economy**. The so-called disruptive evolution has a direct impact on the labour market requiring new skills and competences, on new business models as part of the collaborative economy or platform work as well as on different status during the working life (employee, self-employed, entrepreneurs, etc...) as well as new forms of works (crowd working, on demand work, etc..)

**Demographic ageing** is another important trend which will have a strong impact on sustainability of social protection systems and pensions. At the same time longer working life can be facilitated by an increase of the use of robots and new technologies but it will also require decisive actions in up-dating skills as well as in reskilling people.

This is also a new challenge for national education and training systems which need to quickly adapt to the new needs of life-long learning and adult learning.

Another aspect is the **integration of migrants and refugees** on the labour market, in education and training structures and in society in many Member States. UEAPME regrets that the EPSR currently makes no reference to this challenge.

#### 5. What would be the main risks and opportunities linked to such trends

**Globalisation** is part of the European daily reality. It creates new markets and opportunities for enterprises and workers developments. At the same time, it might also increase inequalities. It is essential to invest in better qualification of people and in a fair redistribution of income.

**Demographic change** can be a big opportunity if elderly people, who live longer and healthier, are encouraged to remain in the labour market through active ageing or even to come back after having entered their retirement scheme.

On the different status during a working life, there is a need to rethink the approach of social protection systems with rights more attached to the person than to the status and to possibly ensure more portability of social rights to facilitate transitions among different type of activities on the labour market.

**On digitalisation and labour market change**, new business models and new forms of work, there will be a more permanent need for up-dating competences through up-skilling and reskilling as well as to facilitate transitions on the labour market between different statuses.

The vary rapid disruptive evolution of new technology will on the one hand make the physically demanding work easier through the use of robots and various new online tools and therefore facilitate longer working life. On the other hand, the digitalisation of services know as collaborative economy will create strong pressure on our existing economic and business models.

One of the major issues will be the need for new competences to be acquired through life-long learning and up-skilling or reskilling of people.

**Refugees and asylum seekers** represent an obvious opportunity for counterbalancing demographic ageing and increasing the labour supply. But this will only turn into real opportunity if these people are rapidly integrated in the education and training systems and in the labour market.

If it is not the case, the influx of refugees and asylum seekers might bare a clear risk of an increase of inequalities and social tensions.

#### 6. Are there policies, institutions or firm practices – existing or emerging – which would you recommend as references?

On demography, there is a clear need to adapt pensions system taking into account the life expectancy in view of their sustainability.

On new forms of work and digitalisation, there is a need to adapt social protection systems so that transitions on the labour market are facilitated whatever the employment status.

On economic migrants it is essential to differentiate between chosen migration of highly skilled workers as foreseen in the Blue Card Directive and refugees and asylum seekers.

In the case of economic migration, there is a need to tackle the causes of such an economic migration with the support of EU financial means for development and external policy.

On current flows of refugees and asylum seekers, it is essential to ensure their rapid integration into the society and into the labour market as well as the preparation of the society to accept the newcomers.

### **On the European Pillar of social rights?**

7. Do you agree with the approach outlined here for the establishment of a European Pillar of social rights?

Despite a detailed description of a possible European Pillar of Social Rights, a number of key questions remains: are which possible form initiatives will take, to whom they will be directed (EU or Euro area), and how their impact will be measured. Further the EU Commission speaks about **a reference framework to screen employment and social performance of participating Member States to drive reforms at national level and to serve as a compass for renewed convergence within the euro area.**

Concerning reforms, the link with the European Semester is not clear. In any case it should not duplicate processes already in place.

**Once more, the benchmarks to be defined should be the tool to measure the impact of the EPSR on convergence in the field of economic, employment and social performance as well as competitiveness.**

UEAPME stresses that the EPSR has to clearly distinguish the Treaties as the legal basis for any legal proposals and the European Charter of Fundamental Rights.

In any case it cannot alter the division of competences between the European and the national level and has to respect the principle of subsidiarity and autonomy of social partners.

When talking about a European Pillar of Social Rights, it should also not repeat the European Charter of Fundamental Rights.

Talking about convergence among Member States in the field of employment and social policy, the best approach would be to concentrate on the countries which are under the EU average in each of the 20 domains in order to help them coming closer to the EU average;

Employment and social policy very much depend on national economic reality and context. Specificities of each Member States concerning the economic, budgetary and social situation should be duly taken into account when achieving employment and social objectives.

**Once more it is fundamental to recall that major progress in the field of employment and social affairs will not take place without first a better macro-economic situation.**

If the idea is to ensure a minimum standard on the 20 domains mentioned, it should target the countries with less developed social systems and use tailor-made instead of one-size-fits-all solutions. But it should not be done at the expense of productivity and competitiveness. Otherwise it will bear the risk to be unsustainable and to end-up with a negative impact on the economic and social development of the country as a whole.

In any case the EU Pillar of Social Rights should not impose new obligations and burdens on countries with well-developed social systems and undermine the competitiveness. EU compulsory standards and obligations should remain at a minimum level.

**The best way to reach convergence is to strive for good economic performance as a sound basis to ensure the sustainability of the European social model in each of the Member State. .**

Fostering competitiveness and growth, attracting new investments, supporting small enterprises through a more business friendly environment are necessary conditions for boosting employment, job creation and fight against social exclusion and poverty as well as for sustainability of social protection systems.

8. Do you agree with the scope of the Pillar, domains and principles proposed here? Are there aspects that are not adequately expressed or covered so far?

**The main missing dimension is labour taxation which represents a true barrier to make work pay and encourage enterprises to hire new workers.**

9. What domains and principles would be most important as part of a renewed convergence for the euro area? Those having a direct fiscal and budgetary impact are essential for the Euro area convergence and therefore should be considered with caution. Sustainability of social protection systems should be a key concern for the future and should be integrated in the Pillar. **A renewed flexicurity concept should be defined and implemented for better employment and social performances.**

10. How this should be expressed and made operational? In particular do you see the scope and added value of minimum standards or reference benchmarks in certain areas and if so which ones?

The only way to make the Pillar operational is to define a number of well-chosen benchmarks such as on entrepreneurship including self-employed, employment, Active Labour Market Policies, education and vocational training, social expenditure or tax wedge on labour that can really contribute to better convergence within the EMU and the EU.



## Comments on the 20 domains and principles proposed by the European Commission

### 1) Skills, education and life-long learning

It is particularly adequate that the EU Commission insists on access to quality education and training throughout life taking into account the existing skills mismatch and skills gap on the labour market. Life-long learning and continuous training are crucial for the employability of people. It is necessary that low qualified adults get access to basic skills and key competences as a bridge towards VET and the labour market (see UEAPME position on Skills Agenda and Skills Guarantee<sup>1</sup>). **Missing is the recognition that education and training systems should deliver skills and competences relevant for the labour market needs.**

### 2) Flexible and secure labour contracts

UEAPME welcomes the fact that the EU Commission in the communication and as one of the twenty domains, recognises the need for flexibility, however it should not be limited to labour contracts but become a guiding principle for the whole field of employment and labour market policy. Employers and notably small and micro-enterprises need a good combination of internal and external flexibility going far beyond the labour contract. Preventing “misuse or abuse of precarious and non-permanent employment relationship” has to be clarified. Not all non-permanent contracts can be considered as precarious employment relationship. Furthermore the principle that “Transition towards open-ended contract shall be ensured” will only be feasible if the strictness of employment protection legislation for open-ended contracts is adapted to better take into account the flexibility needs of employers and the choice of many workers. **This should be formally recognised.** Finally, presenting self-employment notably related to digital economies and new forms of work predominantly as a precarious form of work, bearing the risk of exclusion is not justified.

### 3) Secure professional transitions

The recognition of a shared responsibility of workers, enterprises and the society for up-skilling is of utmost importance. UEAPME agrees on the principle that preservation and portability of social and training entitlements should be facilitated, warns however, for adverse effects of hindering the labour market fluidity by discouraging mobility.

### 4) Active support for employment

It is essential to foster active support for young people in view of boosting their employment rate as set up in the Youth Guarantee as well as to target long term unemployed as stated in the Council Recommendation on “the integration of the long-term unemployed into the labour market”.

### 5) Gender equality and work-life balance

**The EU framework on work-life balance is broad enough for not adding new rights.** It is for Member States to adapt their legislation and practices in order to better facilitate access of women to the labour market notably through provisions of affordable childcare facilities and other services for an improved work-life balance for both parents.

<sup>1</sup> [http://ueapme.com/IMG/pdf/UEAPME\\_position\\_on\\_A\\_New\\_Skills\\_Agenda\\_for\\_Europe\\_.pdf](http://ueapme.com/IMG/pdf/UEAPME_position_on_A_New_Skills_Agenda_for_Europe_.pdf)  
[http://www.ueapme.com/IMG/pdf/UEAPME\\_position\\_on\\_establishing\\_a\\_Skills\\_Guarantee.pdf](http://www.ueapme.com/IMG/pdf/UEAPME_position_on_establishing_a_Skills_Guarantee.pdf)

6) Equal opportunities

Non-discrimination principle is fully part of the legislation and should be fully implemented at national level.

7) Conditions of employment

Principle 7a stating that every worker should be informed in written form prior to the start of employment on employment relationship is not adequate and too burdensome for many micro-companies. **It should be adapted and replaced** by “an information only at the beginning of the employment relationship”.

**Principle 7b** requiring information ahead of the probation period is not necessary as very often the conditions are part of collective agreements and in addition the worker is already informed in written form about the employment relationship which should cover the probation period. **It should be deleted.**

**Principle 7c** foresees that dismissal should be motivated. The obligation to motivate dismissal and the period of notice clearly differ from country to country or is in some cases is defined by sectoral collective agreements. There is no need for such an EU level principle. **It should be deleted.**

8) Wages

**Principle 8a** rightly recognises the need to ensure wage evolution in line with productivity as well as the safeguards to employment and motivation to seek work. At the same time, the EU Commission with a reference to fairly remunerated employment is indirectly touching the principle of a living wage, which should be let for the national level. Furthermore, the description of the way social partners should be consulted does not correspond to reality in a number of Member States where social partners are the ones defining wage levels, including the minimum wage, in an autonomous manner. **It should be revised.**

9) Health and safety at work

The link the EU Commission establishes between less stable employment relationship and health and safety protection is not justified since the employer is always responsible for the prevention of risks at the work place whatever the type of employment contracts. Furthermore, ensuring the protection “from all risks that may arrive at work” is too far reaching whatever the size of the enterprise. It should be limited to potential risks, which are known or identified. **It should be revised accordingly.**

10) Social dialogue and involvement of workers

The EU Commission is rightly focusing on the need for capacity of social partners to be more autonomous and representative. However the aim should not only to be able to reach collective agreements but also to fully play their role in policy making. Limiting the role of social partners to be consulted in the design and implementation of employment and social policies shows a very narrow approach. It does not reflect the **core task and role of social partners to directly act as designers and participate in the implementation of employment and social policies.**

On the development of collective agreements the European Commission missed the point to have the right balance between the various levels of collective agreements, taking into account the current evolution towards more decentralised industrial relations. **It should be revised accordingly.**

On information and consultation of workers, the current EU legislation is sufficient.

11) Integrated social benefits and services

Better integration of social benefits and of services is the right approach. However it should be added that early activation is equally important to be re-integrated in the labour market. **This principle should be completed accordingly.**

12) Healthcare and sickness benefits

**Principle 12 c** states that the participation of the self-employed in insurance schemes shall be encouraged. UEAPME believes that workers regardless of employment status should have access to insurance schemes. In particular with regard to entrepreneurs including self-employed, UEAPME refers to its benchmark proposal on existence, coverage and take-up of such schemes. Coverage of social protection should be ensured during transitions from employment to self-employment and back as part of renewed flexicurity concept.

13) Pensions

It is particularly important to ensure the link between the pension statutory age and the life expectancy and to reduce the gap between the effective and statutory retirement age, notably by avoiding early exit from the labour market for long-term sustainability and intergenerational fairness. To address the gender gap in this field, it is important to ensure the same statutory retirement age for women and men. However, it is the strict responsibility of Member States to frame the adequacy of pensions notably for entrepreneurs including self-employed. UEAPME refers again in this context to its benchmark proposals on the existence, coverage and take-up of pension schemes for entrepreneurs including the self-employed.

14) Unemployment benefits

UEAPME supports effective ALMPs, including unemployment benefits linked to participation in active support. Mutual learning between Member States as regards active labour market policies should be encouraged e.g. through Public Employment Services bench learning. Essential is to make work pay and avoid unemployment traps. In work benefits e.g. have proven to be more effective than training alone.

15) Minimum income

UEAPME agrees with the principle that a minimum income should be ensured for those who lack sufficient resources and that such benefits shall include requirements for participation in active support to encourage labour market participation. But it is the competence of each Member State to define the level.

16) Disability benefits

UEAPME agrees that people with disabilities should receive adequate services and basic income security, however the level should be decided at Member State level.

17) Long-term care

With an ageing population, it is crucial to ensure the financial sustainability of long-term care and in particular avoiding that the whole financial burden rely on younger generation. **Principle 17b** should clearly mention that financial sustainability of long term care should not only be based on increased contribution of active workforce.

18) Childcare

UEAPME welcomes the principle to access to quality and affordable childcare facilities (see principle 5). It is also an important element to ensure gender equality and a higher access to women in the labour market.

19) Housing

Housing policies are a national competence which should be respected.

20) Access to essential services

These services are essential, however fair competition should be ensured for essential services as for other markets areas.

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