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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE**

**Monitoring the implementation of the European Pillar of Social Rights**

{COM(2018) 130 final}

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## Introduction

The European Pillar of Social Rights was proclaimed on 17 November 2017 by the European Parliament, the Council and the Commission at the Social Summit for Fair Jobs and Growth in Gothenburg, Sweden. It expresses the shared responsibility of EU institutions, all levels of government, social partners and civil society to deliver a strong social Europe. Ahead of the Summit, EU-level social partners agreed on a joint statement<sup>1</sup> detailing how they can contribute to fair jobs and growth in the future.

At the European Council of December 2017<sup>2</sup>, European Heads of State or Government called for the Pillar to be implemented at EU and Member State level, in line with their respective competences, and for swift progress on pending social files, including new initiatives in the Commission's Work Programme 2018<sup>3</sup>. They also asked the European Commission to propose appropriate monitoring arrangements for the Pillar.

This staff working document provides an update of a similar document issued by the Commission as part of the European Pillar of Social Rights Pillar in April 2017<sup>4</sup>. It details progress made at EU level between April 2017 and March 2018.

The European Pillar of Social Rights sets out a number of key principles and rights to support fair and well-functioning labour markets and welfare systems. Together, these principles and rights set an ambitious agenda for better-performing economies and more equitable and resilient societies. The goal is to support a renewed process of convergence towards better working and living conditions across Europe. It is about delivering new and more effective rights for citizens, addressing emerging social challenges and the changing world of work in light of, in particular, emerging types of employment deriving from new technologies and the digital revolution. These principles and rights cover the areas of employment, social protection, social inclusion, education and equal opportunities.

The Pillar builds both on existing EU law (the EU 'acquis') and international law. In particular, it draws on:

- the 1989 Community Charter of the Fundamental Social Rights of Workers,
- the European Social Charter of 1961,
- the Revised European Social Charter of 1996 and
- the European Code of Social Security of the Council of Europe.

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<sup>1</sup> <http://www.socialsummit17.se/wp-content/uploads/2017/11/Joint-statement-of-the-european-social-partner.pdf>

<sup>2</sup> <http://www.consilium.europa.eu/media/32204/14-final-conclusions-rev1-en.pdf>

<sup>3</sup> [https://ec.europa.eu/info/publications/2018-commission-work-programme-key-documents\\_en](https://ec.europa.eu/info/publications/2018-commission-work-programme-key-documents_en)

<sup>4</sup> SWD (2017) 201 final

Its principles also take account of the relevant International Labour Organization (ILO) conventions, recommendations and related protocols, and the United Nations Convention on the Rights of Persons with Disabilities.

Over the last 30 years, the EU *acquis* on social *matters* has also developed, through new provisions in the EU Treaties, the adoption of the Charter of Fundamental Rights of the European Union, new legislation and the case law of the Court of Justice of the European Union. More recently, the adoption of the UN Sustainable Development Goals for 2030 has provided a new agenda for addressing poverty eradication and the economic, social, solidarity and environmental aspects of sustainable development in a balanced and integrated manner.

This document, like the European Pillar of Social Rights, has three chapters, divided into sections on each principle or right. Each section is in three parts, covering the existing law, the scope of and changes introduced by the Pillar, and how it can be implemented.

#### *Existing EU law in this field*

For each principle or right, the first part outlines the social *acquis*, starting with the relevant provisions of the Charter of Fundamental Rights of the European Union, and lists the legislative powers and their limits set out in the Treaty on the Functioning of the European Union (TFEU). It then lists the key legislative and non-legislative measures already in place that support the principle or right in question.

Only the most relevant instruments are listed - both legally binding measures and Council or Commission recommendations providing guidance.

Where reference is made to the Charter of Fundamental Rights of the European Union, it should be noted that this Charter's provisions apply to the EU institutions, bodies, offices and agencies, with due regard for the principle of subsidiarity, and to Member States only where they are implementing EU law.

#### *Scope and changes introduced by the European Pillar of Social Rights*

The Pillar highlights principles and rights contained in binding provisions of EU law, and makes them more understandable and explicit for citizens and everyone involved. Moreover, in some specific areas, the Pillar adds new elements to the existing *acquis*. This is explained in detail in the second part of the section.

The principles and rights set out are addressed to EU citizens and legally resident third country nationals in Member States, regardless of their employment status, and to public authorities and social partners.

#### *Implementation*

Given the legal nature of the Pillar, for these principles and rights to be legally enforceable, they first require dedicated measures or legislation to be adopted at the appropriate level. This is explained in the third part of each section, which sets out what can be done to implement each principle or right by Member States and the social partners, which have the primary responsibility for putting social principles and rights into practice. Additionally, this section outlines how EU actions would contribute.

Developments at EU and Member State level that fall under the Pillar's scope are closely monitored as part of the European Semester, the EU's annual cycle of economic policy coordination. The Semester also promotes targeted reforms, depending on national specificities, covering the wide span of the Pillar, from education, training and life-long learning to active support for the unemployed, wages, childcare, social protection and minimum income and pension and healthcare systems. The euro area and country analysis and recommendations made as part of the Semester will therefore reflect and promote the development of social rights, by assessing, monitoring and comparing progress on their implementation. Benchmarking aiming to support structural reforms and upwards convergence among Member States towards best performers will be progressively conducted for a limited set of areas such as unemployment benefits, minimum wages, minimum income, early childhood education and care, employment protection legislation<sup>5</sup> and access to social protection.

The European Structural and Investment Funds will support the implementation of the European Pillar of Social Rights. In particular, the European Social Fund, the European Regional Development Fund and social cohesion initiatives such as the Youth Employment Initiative, the European Globalisation Fund and the Fund for European Aid to the Most Deprived, will play a key follow-up role. The Pillar will also play a role in the design of the post-2020 programmes for these funds and initiatives.

Turning the principles and rights enshrined in the Pillar into reality is a shared commitment and responsibility for the EU, its Member States and the social partners, acting in line with the distribution of competences set by the Treaties and taking into account the principles of subsidiarity and proportionality, sound public finances and the respect of the autonomy of the social partners.

Nothing in the European Pillar of Social Rights shall be interpreted as restricting or adversely affecting principles and rights recognised in relevant fields of application, by EU law or international law and by international agreements to which the EU or all the Member States are party, including the European Social Charter of 1961 and the relevant ILO Conventions and Recommendations. Implementation of the Pillar could be reinforced by ratifying relevant ILO conventions, the Revised European Social Charter of 1996 and its Additional Protocol Providing for a System of Collective Complaints.

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<sup>5</sup> Draft Joint Employment Report 2018

The involvement of social partners is central to the delivery of social rights. Promoting dialogue between management and labour is enshrined as a common objective of the EU and its Member States, in Article 151 TFEU. At EU level, in the policy domains covered by Article 153 TFEU, social partners are to be consulted in accordance with Article 154 TFEU and may request implementation of their agreements at EU level under Article 155 TFEU. Social partners may support the implementation of the Pillar via collective bargaining at national level and/or by collecting and exchanging good practices across Europe.

In addition, civil dialogue at both national and EU level is vital for broadening participation in policymaking and further mobilising social actors to help deliver the principles and rights of the Pillar. Civil dialogue involving civil society organisations allows for a range of civic stakeholder interests to be represented and reinforces the transparency, accountability and legitimacy of public decisions.

The Pillar should be implemented according to available resources and within the limits of sound budgetary management and Treaty obligations governing public finances. In particular, the establishment of the Pillar does not affect the right of Member States to define the fundamental principles of their social security systems and should not affect the financial equilibrium of those systems.

# Chapter I – Equal opportunities and access to the labour market

## Principle 1 - Education, training and life-long learning

**Everyone has the right to quality and inclusive education, training and life-long learning in order to maintain and acquire skills that enable them to participate fully in society and manage successfully transitions in the labour market.**

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### 1. Existing EU law

#### *a) The Charter of Fundamental Rights of the European Union*

Article 14 of the Charter gives everyone the right to education and to have access to vocational and continuing training. This right includes the possibility of receiving compulsory education free of charge.

#### *b) EU legislative powers and their limits*

Under the Treaty on the Functioning of the European Union (TFEU):

- **Article 165** empowers the EU to help develop high-quality education by encouraging policy cooperation between Member States and, if necessary, by supporting and implementing action on this. In doing so, the EU must fully respect Member States' responsibility for the content of teaching and their cultural and linguistic diversity.
- **Article 166** empowers the EU to implement a vocational training policy which supports and supplements the actions of Member States, while fully respecting their responsibility for the content and organisation of vocational training.

#### *c) Existing measures in this field*

Council Recommendation of 22 April 2013 on establishing a Youth Guarantee<sup>6</sup> calls on Member States to ensure that, within a period of four months of becoming unemployed or leaving formal education, all young people under the age of 25 years receive a good-quality offer of employment, continued education, an apprenticeship or a traineeship.

Recommendation 2006/962/EC of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning<sup>7</sup> identifies the knowledge, skills and attitudes for personal fulfilment, active citizenship, social cohesion and employability.

Council Recommendation of 28 June 2011 on policies to reduce early school leaving<sup>8</sup> invites EU Member States to develop comprehensive strategies to support young people in completing upper

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<sup>6</sup> Council Recommendation of 22 April 2013 on establishing a Youth Guarantee, OJ C120, 26.4.2013, p.1.

<sup>7</sup> Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning OJ L 394, 30.12.2006, p. 10.

secondary education and achieve the Europe 2020 headline target on reducing the rate of early school leaving to less than 10% by 2020.

Recommendation 2006/143/EC of the European Parliament and of the Council of 15 February 2006 on further European cooperation in quality assurance in higher education<sup>9</sup> identifies actions that could be taken at national and EU level to support the development and accreditation of high-quality higher education.

Recommendation 2009/C 155/01 of the European Parliament and of the Council of 18 June 2009 on the establishment of a European Quality Assurance Reference Framework for Vocational Education and Training<sup>10</sup> provides common tools for the management of quality to promote better vocational education and training.

Recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning<sup>11</sup> sets out a method for measuring educational achievement based on learning outcomes.

Council Recommendation of 20 December 2012 on the validation of non-formal and informal learning<sup>12</sup> calls on EU Member States to make appropriate arrangements to identify, document, assess and certify learning outcomes leading to a qualification.

The New Skills Agenda for Europe<sup>13</sup>, adopted in June 2016, launched a number of actions to improve the quality and relevance of skills formation, make skills more visible and comparable, and improve skills intelligence. One of these actions is Council Recommendation of 19 December 2016 on Upskilling Pathways: New Opportunities for Adults<sup>14</sup> which calls on EU Member States to offer adults support to acquire a minimum level of literacy, numeracy and digital competence and make progress towards a secondary qualification, and sets out the blueprint for sectoral cooperation on skills.

Regulation 1303/2013<sup>15</sup> and Regulation 1304/2013<sup>16</sup> provide support to the thematic objective 'investing in education, training and vocational training for skills and lifelong learning'. The budget for

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<sup>8</sup> Council Recommendation of 28 June 2011 on policies to reduce early school leaving, OJ C 191, 1.7.2011, p. 1.

<sup>9</sup> Recommendation of the European Parliament and of the Council of 15 February 2006 on further European cooperation in quality assurance in higher education, OJ L 64, 4.3.2006, p. 60–62

<sup>10</sup> Recommendation of the European Parliament and of the Council of 18 June 2009 on the establishment of a European Quality Assurance Reference Framework for Vocational Education and Training, OJ C 155, 8.7.2009, p. 1.

<sup>11</sup> Recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning, OJ C 111, 6.5.2008, p. 1.

<sup>12</sup> Council Recommendation of 20 December 2012 on the validation of non-formal and informal learning, OJ C 398, 22.12.2012, p. 1.

<sup>13</sup> Communication from the Commission, A New Skills Agenda for Europe, COM(2016) 381 final, 10.6.2016

<sup>14</sup> OJ C 484, 24.12.2016, p.1.

<sup>15</sup> 2011/0276/COD - Regulation 1303/2013 laying down the provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund (also called ESI Funds)

<sup>16</sup> 2011/0268/COD - Regulation 1304/2013 on the European Social Fund (ESF)



this objective for 2014-2020 is 34.6 billion EUR, including 27.1 billion EUR under the European Social Fund (ESF).

The European Council Conclusions of December 2017<sup>17</sup> highlight the importance of the social, educational and cultural dimensions of EU policies in bringing Europeans together and building our common future.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The European Pillar of Social Rights sets out a general right to education and training throughout life. It goes further than Article 14 of the Charter of Fundamental Rights of the European Union, by focusing on quality and inclusiveness.

The Pillar:

- aims to ensure the provision of high-quality formal and informal education and training;
- emphasises the relevance of education and skills for successful participation in the labour market and for social cohesion;
- emphasises the need for opportunities to maintain and acquire skills. This requires flexible opportunities for learning and re-training, which should be available at all times throughout a person's life and career, regardless of the employment status. These include early childhood, initial, further, higher and adult education and training systems.

Inclusive education, training and lifelong-learning require the provisions of accessible means to acquire, maintain or develop skills and competences to a level that equips everyone for active life. For example, any particular needs of people with disabilities or those from disadvantaged backgrounds should be catered for, so that they receive access on an equal basis.

The Pillar puts further emphasis on the skills required during labour market transitions, such as changes in employment status, changing employer, entering or returning from career breaks or moving between employment and self-employment. This includes acquiring and maintaining basic digital skills.

## **3. Implementation**

### *a) What Member States and social partners can do*

Member States are responsible for determining the content of teaching and vocational training and for the organisation of their national education systems and vocational training. They are invited to implement the Pillar's provisions in light of this, in addition to applying it when implementing EU measures adopted in these fields.

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<sup>17</sup> EUCO 19/1/17 REV 1 CO EUR 24 CONCL 7, 14.12.2017

At EU level, social partners can also collect and exchange good practices across the EU. Nationally, they can support the implementation of this Principle via collective bargaining and through involvement in the design and implementation of relevant policies. They can promote, develop and contribute to policies at company, local, national or EU level to improve training, re-training and lifelong learning opportunities and to provide more traineeships and apprenticeships.

At cross-industry level, EU social partners have worked on identifying skills needs in digital economies and encouraging the use of apprenticeships to increase youth employment. They have organised discussions between national social partners on these issues.

*Good practice in the spirit of the Pillar*

In 2017, in order to reduce early school leaving rates, **Bulgaria** put together local multidisciplinary teams as part of interinstitutional cooperation measures to improve school enrolment and retention. The aim is to identify out-of-school children or students at risk of dropout, improve the information exchange between relevant institutions and improve the data collection.

In **Slovenia** a reform of the vocational education and training system came into effect in December 2017. It provided that an apprentice has the same status as a secondary school student and not that of a worker. The educational programme followed by an apprentice must consist of at least 50 % practical education (work) with the employer, while at least 40 % of the apprentice's educational programme must be provided by the school.

In **Finland** a reform of the qualification structure, funding and governance framework of the vocational education and training systems was adopted in June 2017. This will increase and diversify learning in the workplace by developing apprenticeship training and by introducing a new training agreement model that facilitates flexible learning and a practical approach to obtaining a qualification. Social partners were involved in the working groups that drew up the reform.

*b) Recent and ongoing initiatives at EU level*

In 2017, the Commission adopted a proposal for a Council Recommendation on a European Framework for Quality and Effective Apprenticeships, which sets out criteria for learning and working conditions, and identifies framework conditions that should enable learners to acquire relevant skills and qualifications through high-quality and effective apprenticeships schemes.

The revised European Qualifications Framework<sup>18</sup> adopted in May 2017 is currently being implemented. It will support better understanding of qualifications and make better use of all available skills in the European labour market.

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<sup>18</sup> <https://ec.europa.eu/ploteus/>

In 2017 the Commission adopted a Communication on Strengthening European Identity through Education and Culture<sup>19</sup>, which sets out the Commission's vision of a European Education Area, building on the New Skills Agenda for Europe and the investing in Europe's youth initiatives.

The Commission adopted a proposal for a Council Recommendation on Key Competences for Lifelong Learning in January 2018<sup>20</sup>, updating the definition of key competences necessary for personal fulfilment, employability, active citizenship and social inclusion in a lifelong learning perspective.

Political agreement was reached between Council and Parliament on a revised Europass Decision<sup>21</sup> in December 2017. It will offer a basis for updating the Europass Framework, providing improved tools for people to present their skills and obtain information on skills needs and trends.

The Commission is implementing the Digital Skills and Jobs Coalition to accompany the digital transformation. It is doing so by promoting the exchange of best practice and encouraging partnerships between industry, education providers and social partners.

The Commission published a proposal for a Council Recommendation on promoting common values, inclusive education, and the European dimension of teaching on 17 January 2018<sup>22</sup>.

The Commission presented a Communication on a renewed EU agenda for higher education<sup>23</sup> in May 2017, focused on: tackling future skills mismatches and promoting excellence in skills development; building inclusive and connected higher education systems; ensuring that higher education institutions contribute to innovation; and supporting effective and efficient higher education systems.

The Commission presented in May 2017 a Communication on school development and excellent teaching for a great start in life<sup>24</sup>. It focused on developing better and more inclusive schools, supporting teachers and school leaders, and developing and re-focusing the governance of school education systems.

The Commission proposal for a Council Recommendation for tracking graduates was adopted in November 2017<sup>25</sup>. The initiative set out in the proposal aims to improve the availability of qualitative and quantitative information about what graduates from tertiary education and vocational education and training in the EU go on to do after they complete their education and training.

In its December 2016 Communication "Investing in Europe's Youth",<sup>26</sup> the Commission proposed renewed actions to support youth employment and create more opportunities for young people.

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<sup>19</sup> COM(2017) 673 final, 14.11.2017

<sup>20</sup> 2018/0008 (NLE). <https://ec.europa.eu/education/sites/education/files/recommendation-key-competences-lifelong-learning.pdf>

<sup>21</sup> Decision No 2241/2004/EC of the European Parliament and of the Council of 15 December 2004 on a single Community framework for the transparency of qualifications and competences (Europass), OJ L 390, 31.12.2004, p. 6

<sup>22</sup> COM(2018) 23 final

<sup>23</sup> [https://ec.europa.eu/education/sites/education/files/he-com-2017-247\\_en.pdf](https://ec.europa.eu/education/sites/education/files/he-com-2017-247_en.pdf)

<sup>24</sup> COM(2017) 248 final

<sup>25</sup> <http://data.consilium.europa.eu/doc/document/ST-14208-2017-INIT/en/pdf>

<sup>26</sup> COM(2016) 940 final.

To ensure the full and sustainable implementation of the Youth Guarantee, the budget for the Youth Employment Initiative was extended by EUR 1.2 billion, spread over four years (2017-2020), matched by EUR 1.2 billion from existing ESF allocations.

In June 2016, the European Commission proposed specific actions to support Member States in integrating third-country nationals in their education systems under the Action Plan on the Integration of Third-country nationals.<sup>27</sup>

In December 2017, the European Commission and the European social and economic partners signed a European Partnership on integration laying down key principles and commitments to support and strengthen opportunities for refugees and migrants legally residing in the EU to integrate into the European labour market.<sup>28</sup>

The European Centre for the Development of Vocational Training (Cedefop), one of the EU's decentralised agencies, is supporting work by the Commission, Member States and social partners to modernise vocational education and training systems, improve access to and the attractiveness and efficiency of vocational education and training, and provide information on current and future skill supply and demand in the European labour market.

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<sup>27</sup> COM(2016) 377 final.

<sup>28</sup> [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/legal-migration/integration/docs/20171220\\_european\\_partnership\\_for\\_integration\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/legal-migration/integration/docs/20171220_european_partnership_for_integration_en.pdf)

## Principle 2 - Gender equality

**a. Equality of treatment and opportunities between women and men must be ensured and fostered in all areas, including regarding participation in the labour market, terms and conditions of employment and career progression.**

**b. Women and men have the right to equal pay for work of equal value.**

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### 1. Existing EU law in this field

#### *a) The Charter of Fundamental Rights of the European Union*

Article 23 of the Charter provides that equality between women and men must be ensured in all areas, including employment, work and pay. It also stipulates that the principle of equality shall not prevent the maintenance or adoption of measures which provide specific advantages in favour of the under-represented sex.

Article 33 of the Charter provides that, in order to reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child.

#### *b) EU legislative powers and their limits*

Article 19 of the Treaty on the Functioning of the European Union (TFEU) empowers the EU to take appropriate action to combat discrimination, including discrimination based on gender.

Article 153 TFEU empowers the EU to adopt measures, including directives setting minimum requirements, to support and complement Member State activities, including to ensure equality between men and women with regard to labour market opportunities and treatment at work. Article 157(3) TFEU empowers the EU to adopt measures to ensure that the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation is applied, including the principle of equal pay for equal work or work of equal value.

Article 157(4) TFEU specifies that the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

#### *c) Existing measures in this field*

EU Directives prohibit discrimination and promote gender equality in employment and occupation, self-employment, access to and supply of goods and services, and social security. They also set out rights related to maternity and parental leave.

Directive 2006/54/EC of the European Parliament and of the Council<sup>29</sup> guarantees equal treatment of men and women in: access to vocational training and employment, including promotion; working conditions, including pay; and occupational social security schemes. Commission Recommendation 2014/124/EU<sup>30</sup> aims to improve the application of the principle of equal pay between men and women through increased transparency.

Council Directive 79/7/EEC<sup>31</sup> provides for equal treatment of men and women in social security matters, such as: statutory social security schemes which provide protection against sickness, invalidity, accidents at work and occupational diseases, unemployment and risks related to old age; and social assistance which supplements or replaces such social security schemes.

Council Directive 2004/113/EC<sup>32</sup> guarantees equal treatment of men and women in access to and supply of goods and services. Directive 2010/41/EU of the European Parliament and of the Council<sup>33</sup> clarifies that the principle of equal treatment of men and women applies to self-employed workers and in situations where spouses or life partners of a self-employed worker participate in his or her activities.

Council Directive 92/85/EEC<sup>34</sup> contains measures to encourage improvements in the health and safety at work of pregnant workers and workers who have recently given birth or who are breastfeeding, and establishes the right to a minimum of 14 weeks of maternity leave. It guarantees protection against dismissal from the beginning of the pregnancy to the end of this maternity leave.

Council Directive 2010/18/EU<sup>35</sup> establishes the right to parental leave and sets out minimum requirements for that leave (four months for each parent, at least one month of which cannot be transferred to the other parent) and the requirement to protect employment rights. It sets out the circumstances that must be put in place when an employee returns to work after such parental leave and established the right to special leave from work on grounds of force majeure.

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<sup>29</sup> Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the Principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) OJ L 204, 26.7.2006, p. 23.

<sup>30</sup> Commission Recommendation of 7 March 2014 on strengthening the Principle of equal pay between men and women through transparency, OJ L 69, 8.3.2014, p. 112.

<sup>31</sup> Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the Principle of equal treatment for men and women in matters of social security, OJ L 6, 10.1.1979, p. 24.

<sup>32</sup> Council Directive 2004/113/EC of 13 December 2004 implementing the Principle of equal treatment between men and women in the access to and supply of goods and services OJ L 373, 21.12.2004, p. 37.

<sup>33</sup> Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the Principle of equal treatment between men and women engaged in an activity in a self-employed capacity, OJ L 180, 15.7.2010, p.1.

<sup>34</sup> Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC), OJ L 348, 28.11.1992, p. 1.

<sup>35</sup> Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC, OJ L 68, 18.3.2010, p. 13.

Regulation 1303/2013<sup>36</sup> and Regulation 1304/2013<sup>37</sup> include provisions to ensure that 'equality between men and women and the integration of gender perspective are taken into account and promoted throughout the preparation and implementation of programmes, including in relation to monitoring, reporting and evaluation'<sup>38</sup>. In addition, under the European Social Fund all Member States are expected to support specific targeted actions in this area.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar emphasises the need to foster proactively equality between women and men through positive action in all areas. By extending equality to all areas, the Pillar goes beyond the existing EU provisions in this area. The provisions on gender equality focus in particular on: participation in the labour market (as reflected by the gap in employment between women and men); terms and conditions of employment (e.g. the difference in the use of part-time employment between women and men); and career progression (e.g. the proportion of women in management positions and the low numbers of female entrepreneurs). These are all areas where further progress needs to be made. Principle 2b addresses the specific challenge of the gender pay gap, which persists despite the measures in current EU legislation.

## **3. Implementation**

### *a) What Member States and Social Partners can do*

Member States are in charge of transposing and enforcing rules adopted at EU level. As the EU measures merely set minimum standards, Member States are invited to go beyond these in order to give effect to this principle.

At EU level, social partners are to be consulted in accordance with Article 154 of the TFEU on possible initiatives based on Article 153 of the TFEU. They can sign agreements that can be implemented at EU level at their request, in accordance with Article 155 of the TFEU. They can also collect and exchange good practices across the EU.

Nationally, social partners can support the implementation of this principle via collective bargaining and through involvement in the design and implementation of relevant policies.

At cross-industry level, EU social partners selected gender equality as a priority for their 2015-2017 work programme, organising exchanges of good practice from national and sectoral social partners on ways to reduce the gender pay gap.

*Good practice in the spirit of the Pillar*

<sup>36</sup> 2011/0276/COD - Regulation 1303/2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund (also called ESI Funds)

<sup>37</sup> 2011/0268/COD - Regulation 1304/2013 on the European Social Fund (ESF)

<sup>38</sup> Article 7 of Common Provisions Regulation (EU) 1303/2013

In December 2017, the **Estonian** Parliament approved changes to the parental leave and benefits system. These include developing flexible possibilities for families to combine leave and work. One aim of these changes is to encourage the more balanced distribution of parental leave and benefits between mothers and fathers. A month-long period of father-specific leave was introduced (which specifies that if the father does not use the month, the family will lose that period of the leave). This month will be added to the current 18 months of parental leave allowed in the Estonian system. In the long term, this new parental leave system is expected to encourage fathers to take up more leave. The father's month is meant for all fathers despite of their status in the labour market or the type of contract they have (whether they work as self-employed or with a permanent contract). The changes will be established gradually in the years 2018-2020.

*b) Recent and ongoing initiatives at EU level*

The Commission is implementing the Strategic Engagement for Gender Equality 2016-2019,<sup>39</sup> which sets out the main priorities in this area, and outlines the existing tools to tackle issues, such as the European Semester, EU Funds and enforcing current legislation. In this context, on 20 November 2017, the Commission adopted an Action Plan 2017 – 2019 to tackle the gender pay gap<sup>40</sup>.

The Commission presented, together with the European Pillar of Social Rights, an initiative "A new start to support work-life balance for parents and carers"<sup>41</sup>. Its objective is to address women's under-representation in the labour market by facilitating balancing professional and family responsibilities for both women and men. It includes a proposal for a Directive on work-life balance for parents and carers, currently being discussed in the European Parliament and in Council, and a Communication with a number of complementary measures, such as providing EU funding to support more and better childcare and long-term care facilities, identifying country-specific obstacles resulting from tax-benefit systems, which discourage second-earners (predominantly women) from work, better monitoring of the reconciliation policies as part of the annual European Semester exercise.

Furthermore, it has proposed a Directive aimed at improving gender balance in corporate boards of the largest listed companies.<sup>42</sup> The Directive is supported by the European Parliament and a majority of Member States and is being discussed by the Council.

The Commission is stepping up its efforts to combat violence against women and is working towards the EU's accession to the Council of Europe Convention on preventing and combating violence against women (the Istanbul Convention) on the basis of its proposal made in March 2016.<sup>43</sup> The EU signed the Convention in June 2017 and discussions are ongoing on internal arrangements between the EU and its Member States to allow the EU to conclude the accession and ratify the Convention.

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<sup>39</sup> SWD (2015)278.

<sup>40</sup> COM(2017) 678 final

<sup>41</sup> COM(2017)253

<sup>42</sup> COM(2012) 614.

<sup>43</sup> COM(2016) 111 final.



The European Institute for Gender Equality, one of the EU's decentralised agencies, is supporting the work of the Commission, Member States and social partners in the area of work-life balance.

## Principle 3 - Equal opportunities

**Regardless of gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation, everyone has the right to equal treatment and opportunities regarding employment, social protection, education, and access to goods and services available to the public. Equal opportunities of under-represented groups shall be fostered.**

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### 1. Existing EU law in this field

#### *a) The Charter of Fundamental Rights of the European Union*

Article 21 of the Charter prohibits any discrimination based on any grounds, including sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. Subject to certain exceptions, Article 21 of the Charter also prohibits any discrimination on grounds of nationality.

#### *b) EU legislative powers and their limits*

Article 19 of the Treaty on the Functioning of the European Union (TFEU) empowers the EU to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Article 18 also refers to the prohibition of discrimination on grounds of nationality.

#### *c) Existing measures in this field*

Council Directive 2000/43/EC<sup>44</sup> (the Racial Equality Directive) prohibits discrimination based on racial or ethnic origin in access to employment, self-employment and occupation, employment and working conditions, education, vocational training, social protection, social advantages, and access to goods and services which are available to the public, including housing. Council Directive 2000/78/EC<sup>45</sup> (the Employment Equality Directive) prohibits discrimination on the grounds of religion or belief, disability, age or sexual orientation with regard to access to employment, self-employment, occupation and vocational training. Both of these Directives prohibit various forms of discrimination: direct and indirect discrimination, harassment, instruction to discriminate and victimisation. The EU is a party to the United Nations Convention on the Rights of Persons with Disabilities.<sup>46</sup>

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<sup>44</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the Principle of equal treatment between persons irrespective of racial or ethnic origin, OJ L 180, 19.7.2000, p. 22.

<sup>45</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ L 303, 2.12.2000, p. 16.

<sup>46</sup> Council Decision of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities, OJ L 23, 27.1.2010, p. 35.

Legally residing third-country nationals that are long-term residents or covered by other EU Directives<sup>47</sup> are entitled to enjoy equal treatment with nationals of their host countries in a number of areas, including in particular: working conditions, including pay and dismissal; access to education and vocational training; and social security. In 2004, Member States adopted common basic principles of integration of third-country nationals. These constitute a framework for policy cooperation on improving integration in the EU and a framework against which Member States can judge and assess their own efforts.

Council Recommendation 2013/C 378/01 provides guidance on effective Roma integration measures in Member States, in particular as regards access to education, employment, healthcare and housing.

The European Structural and Investment Funds have allocated 43.5 billion EUR in the 2014-2020 period towards the thematic objective, which foresees to promote social inclusion and combat poverty and any discrimination. For the 2014-2020 programming period, 1.6 billion EUR have been allocated under the European Social Fund for the priority 'Equality between men and women in all areas, including in access to employment, career progression, reconciliation of work and private life and promotion of equal pay for equal work'. The European Agricultural Fund for Rural Development deals with the specific challenges of rural areas and promotes the social inclusion and poverty reduction in those territories.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar partially goes beyond the current EU legislation by extending protection from discrimination on the grounds of religion or belief, disability, age and sexual orientation to the areas of: social protection, including social security and healthcare; education; and access to goods and services available to the public. The Pillar also extends the prohibition of discrimination based on gender to the area of education, which is not covered by the current legislation.

Equal opportunities measures aim to promote the inclusion of and participation by under-represented groups in the labour market and in wider society. The Pillar's provisions emphasise that specific measures may be necessary to prevent, correct and compensate for disadvantages linked to certain protected grounds. This principle encourages Member States to address the challenge faced by groups at particular risk of discrimination through positive action and incentives, for instance by supporting workforce diversity practices among employers.

## **3. Implementation**

*a) What Member States and Social Partners can do*

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<sup>47</sup> Directives on: Family reunification, Blue Card, , Researchers, Students, Single Permit (covering equal treatment with national for most third country workers admitted under national laws and complementing the coverage of those admitted to family reunification, study and research), Qualification as a beneficiary of international protection, seasonal workers and intra-corporate transferees.

Member States are responsible for transposing and enforcing rules adopted at EU level. Given that EU measures set out above contain minimum standards, Member States are invited to go beyond these rules in order to give effect to this principle. In addition, Member States are invited to continue making progress on negotiations relating to the proposed new Equal Treatment Directive to achieve its swift adoption. Through their National Equality Bodies, Member States can promote equal opportunities for under-represented groups and assist victims of discrimination on the ground.

At EU level, social partners can collect and exchange good practices across the EU e.g. on management practices developed on the basis of social dialogue. Nationally, social partners can support the implementation of this principle via collective bargaining and through involvement in the design and implementation of relevant policies.

*Good practice in the spirit of the Pillar*

In **the Netherlands**, a Ministerial Decree regarding the general duty to realize accessibility for persons with disabilities as provided for in the Disability Discrimination Act (DDA) came into force in June 2017. These provisions constitute an important step towards realising more general accessibility for persons with disabilities in addition to the duty to provide reasonable accommodation in individual cases.

In **Greece**, a law was introduced in the Greek legal order in September 2017. The new legislation includes a series of reforms designed to promote the equal treatment of persons with disabilities, the full enjoyment of their fundamental rights, and to facilitate their lives and daily routine.

In **Portugal**, in July 2017, the Portuguese Parliament passed a law, which sets up the legal regime of prevention, prohibition and fight against discrimination on the ground of race/ethnic origin, nationality, ancestry and territory of origin. The law repealed and updated the former legal regime of non-discrimination on the ground of race and ethnic origin.

*b) Recent and ongoing initiatives at EU level*

The Commission will continue its work to ensure that the proposed new Equal Treatment Directive is adopted. This will expand protection against discrimination based on religion or belief, disability, age or sexual orientation<sup>48</sup> to cover social protection, including: social security and healthcare; education; social advantages; and access to goods and services which are available to the public, including housing.

The EU is providing support to intermediaries such as NGOs, social partners and equality bodies to: improve their capacity to combat discrimination; support the development of equality policies at national level; encourage the exchange of good practices between EU countries; and push for business-oriented diversity management as part of a strategic response to a more diversified society, customer base, market structure and workforce.

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<sup>48</sup> Proposal for a Council Directive on implementing the Principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation {SEC(2008) 2180} {SEC(2008) 2181}.

In August 2017, the Commission published the midterm review<sup>49</sup> of the EU Framework for National Roma Integration Strategies taking stock of progress since its launch in 2011.

The European Union Agency for Fundamental Rights, one of the EU's decentralised agencies, supports the work of the Commission, Member States and social partners in the area of equal opportunities and non-discrimination.

The European Network for Rural development has a thematic working group on social inclusion which collects good practices on social inclusion in rural areas with a particular focus on women, young people, people of Roma ethnic origin and third country nationals.

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<sup>49</sup> Communication from the Commission on the Midterm review of the EU Framework for National Roma Integration Strategies, COM (2017) 458 final of 30 August 2017

## **Principle 4 - Active support to employment**

**a. Everyone has the right to timely and tailor-made assistance to improve employment or self-employment prospects. This includes the right to receive support for job search, training and re-qualification. Everyone has the right to transfer social protection and training entitlements during professional transitions.**

**b. Young people have the right to continued education, apprenticeship, traineeship or a job offer of good standing within 4 months of becoming unemployed or leaving education.**

**c. People unemployed have the right to personalised, continuous and consistent support. The long-term unemployed have the right to an in-depth individual assessment at the latest at 18 months of unemployment.**

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### **1. Existing EU law in this field**

#### *a) The Charter of Fundamental Rights of the European Union*

Article 14 of the Charter gives everyone the right to education and to access vocational and continuing training. Article 29 of the Charter guarantees everyone the right to access job placement service free of charge. Article 34 of the Charter states that the EU recognises and respects the entitlements to social security and social services that provide protection in cases such as loss of employment.

#### *b) EU legislative powers and their limits*

Article 147 TFEU requires the EU to support a high level of employment by encouraging cooperation between Member States and by supporting and, if necessary, complementing their actions. In doing so, the competences of Member States must be respected. Article 153(2) TFEU empowers the EU to adopt legislative measures to support and complement Member State activity to integrate people who have been excluded from the labour market. Article 166 TFEU empowers the EU to implement a vocational training policy which supports and supplement actions by Member States, while fully respecting their responsibility for the content and organisation of vocational training.

#### *c) Existing measures in this field*

The EU and its Member States together pursue the European Employment Strategy, which sets common objectives and targets for employment policy and aims to create more jobs and better jobs throughout the EU.<sup>50</sup> The core of the strategy includes the need to coordinate Member States' actions to assist unemployed people in finding work.

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<sup>50</sup> See, for example, Council Decision (EU) 2015/1848 of 5 October 2015 on guidelines for the employment policy of the Member States for 2015, OJ 268, 15.10.2015, p.28.

Council Recommendation of 22 April 2013 on establishing a Youth Guarantee<sup>51</sup> (the Youth Guarantee Recommendation) calls on Member States to ensure that, within a period of four months of becoming unemployed or leaving formal education, all young people under the age of 25 receive a good-quality offer of employment, continued education, an apprenticeship or a traineeship.

Council Recommendation of 15 February 2016 on the integration of the long-term unemployed into the labour market<sup>52</sup> recommends that long-term unemployed people are offered in-depth individual assessments and guidance and a job-integration agreement comprising an individual offer and the identification of a single point of contact. These should be offered, at the very latest, when a person has been unemployed for 18 months.

Commission Recommendation 2008/867/EC of 3 October 2008 on the active inclusion of people excluded from the labour market<sup>53</sup> sets out an integrated, comprehensive strategy to actively include those excluded from the labour market, combining adequate income support, encouraging inclusive labour markets and supporting access to quality services.

The Entrepreneurship 2020 action plan<sup>54</sup> sets out a vision and concrete measures to support entrepreneurial spirit in Europe. Measures to support self-employment at EU level also aim to reach those segments of the population whose entrepreneurial potential is not yet fully exploited, in particular among women (who represent only 29% of entrepreneurs in Europe). Dedicated actions to develop social entrepreneurship were proposed by the Expert Group on Social Entrepreneurship (GECES) report<sup>55</sup>, which was adopted in 2016.

The European Network of Public Employment Services (PES), established through the Decision No 573/2014/EU<sup>56</sup> of the European Parliament and Council, provides a platform to compare PES performance at European level, identify good practice and encourage mutual learning to strengthen active support services.

The European Network of Employment Services (EURES), re-established under Regulation (EU) 2016/589,<sup>57</sup> aims to improve the functioning, cohesion and integration of labour markets in the EU, including at cross-border level.

With its EUR 86 billion budget for the 2014-2020 period, the European Social Fund (ESF) is the main financial instrument for investing in employment and improving job prospects for Europe's people,

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<sup>51</sup> Council Recommendation of 22 April 2013 on establishing a Youth Guarantee, OJ C120, 26.4.2013, p.1.

<sup>52</sup> Council Recommendation of 15 February 2016 on the integration of the long-term unemployed into the labour market OJ C 67, 20.2.2016, p.1.

<sup>53</sup> Commission Recommendation 2008/867/EC of 3 October 2008 on the active inclusion of people excluded from the labour market, OJ L307, 18.11.2008, p.11.

<sup>54</sup> COM(2012) 795 final

<sup>55</sup> [http://ec.europa.eu/growth/sectors/social-economy/enterprises/expert-groups\\_en](http://ec.europa.eu/growth/sectors/social-economy/enterprises/expert-groups_en)

<sup>56</sup> Decision No 573/2014/EU of the European Parliament and of the Council of 15 May 2014 on enhanced cooperation between Public Employment Services (PES) OJ L 159, 28.5.2014, p. 32.

<sup>57</sup> Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 on a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets, and amending Regulations (EU) No 492/2011 and (EU) No 1296/2013, OJ L 107, 22.4.2016, p. 1.

including the most vulnerable, such as job seekers, inactive people, long-term unemployed. The ESF thematic objectives supporting sustainable and quality employment and labour mobility has allocated 28.2 billion EUR, together with the 8.8 billion EUR under the Youth Employment Initiative. Self-employment, entrepreneurship and business creation are among the actions eligible for ESF support<sup>58</sup>.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar establishes a set of rights for all jobseekers, regardless of their employment status. Its focus in these areas is on providing assistance to find work. This can include employment services, such as job-search counselling and guidance, or participation in 'active measures', such as training, hiring subsidies or re-insertion support. These rights go beyond Article 29 of the Charter of Fundamental Rights, which refers only to the right to a free placement service. Assistance in becoming self-employed is also a significant extension of the existing legislation in this area.

Three elements are central to these rights: early intervention, individualised assistance and support in improving employability. This last element – based on a right to receive support for training or for obtaining new qualifications – is crucial to help people adapt to a rapidly changing labour market.

Today's workers change jobs more frequently than in the past, and training or social protection entitlements already in place should not discourage such mobility. The Pillar affirms the transferability of workers' accrued training or social protection entitlements when they change employment status or employer, including entering or returning from career breaks or moving between employment and self-employment.

The Pillar reiterates the main lines of the Youth Guarantee Recommendation, extending these so they apply to all young people.

The Pillar also provides for a right to personalised support for unemployed people, which includes the ideas of individualised in-depth assessment, counselling and guidance. There must be continuity in support e.g. when eligibility for unemployment benefits ends, other support such as social services should be engaged to address barriers to people finding work. For those in long-term unemployment (unemployment lasting more than 12 months), the Pillar provides for a right to personalised support, which includes individualised in-depth assessment and the job integration agreement referred to in Council Recommendation of 15 February 2016 on the integration of the long-term unemployed into the labour market.

## **3. Implementation**

### *a) What Member States and Social Partners can do*

Member States are responsible for implementing the guidelines and recommendations on employment strategy which have been agreed at EU level. To give effect to the Principle, Member

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<sup>58</sup> Regulation 1304/2013 on the European Social Fund (ESF).



States are invited to update and extend their practices in providing assistance to find employment and self-employment and, in addition, to encourage measures to protect workers' training and social protection entitlements when they change work.

At EU level, social partners are consulted in accordance with Article 154 TFEU on possible initiatives based on Article 153 TFEU, and can sign agreements which may be implemented at EU level at their request in accordance with Article 155 TFEU. Social partners can also collect and exchange good practices across the EU. Nationally, social partners can support the implementation of this principle via collective bargaining and through their involvement in the design and implementation of relevant policies.

*Good practice in the spirit of the Pillar*

In **Malta** in April 2017, the Public Employment Service launched an 'Investing in Skills' scheme. The scheme, financed by European Social Fund assists employers in training staff and includes training abroad. Its objective is to increase the productivity and adaptability of workers in Malta. To this end, a comprehensive set of training in digital skills, personnel development and skills for specific sectors are offered.

In **Spain** the Employment Activation Strategy 2017-2020 approved in December 2017 reinforces previous measures with a stronger focus on results. Notably, it includes measures to reinforce training and support for long-term unemployed (LTU), people over 50 years and low-skilled young people without training. In addition, it will promote the modernisation and coordination of the public employment service, including a results-based evaluation, and an improvement of the Vocational Education and Training System, especially the Dual Training. The resources will be allocated to the regions on the basis of performance measured in terms of sustainable labour market integration.

In **Portugal**, the implementation of one-stop shops for Public Employment Services and Social Services is planned in the first quarter of 2018. The planned *Contrato-Geracao* addresses long-term unemployed in the form of cumulative incentives for the simultaneous recruitment of young unemployed people (or the ones searching for their first job) and the long-term unemployed, aiming to focus support on the ones with greatest difficulty in entering or returning to the labour market.

*b) Recent and ongoing initiatives at EU level*

The implementation of the Youth Guarantee has been assessed in the October 2016 Communication "The Youth Guarantee and Youth Employment Initiative three years on"<sup>59</sup>. In its December 2016 Communication "Investing in Europe's Youth"<sup>60</sup>, the Commission proposed new actions to support youth employment and create more opportunities for young people.

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<sup>59</sup> COM(2016) 646 final.

<sup>60</sup> COM(2016) 940 final.

To ensure the full and sustainable implementation of the Youth Guarantee, the budget for the Youth Employment Initiative was increased by EUR 1.2 billion, spread over four years (2017-2020), matched by EUR 1.2 billion from existing European Social Fund allocations.

The Commission is presenting a proposal on "Access to Social Protection for workers and the self-employed", as part of the "Social Fairness Package". The initiative aims to support all self-employed and non-standard workers who, due to their contract type or employment status, are not sufficiently protected by social security schemes regarding unemployment, sickness and healthcare, maternity or paternity, accidents at work and occupational diseases, disability and old-age. The initiative,<sup>61</sup> addresses gaps in access to social protection faced by people employed on non-standard contracts and in various forms of self-employment as well as the means to make rights transferable and transparent when changing employer, contract type or transitioning from or into self-employment.

In 2017, the Commission adopted a legislative proposal for the European Solidarity Corps to create new opportunities for volunteering, traineeships or work placements for young people. It should consolidate and ensure a firm legal basis for such placements. The proposal is currently being negotiated between the European Parliament and the Council.

The European Network of Employment Services (PES Network) is implementing the *Benchlearning* project, which aims to improve the public employment services' performance, linking indicator-based benchmarking with mutual learning to better provide active support for job seekers. The 2017 Commission Report on enhanced cooperation between public employment services<sup>62</sup> evaluated how this has been implemented to date.

In June 2016, the European Commission proposed actions to support Member States in integrating third-country nationals in a number of areas, including labour market and access to vocational training as part of the Action Plan on the Integration of Third-Country Nationals.<sup>63</sup> Some of these actions are also set out in the New Skills Agenda for Europe (e.g. the skills profile tool for third country nationals, launched in 2017).

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<sup>61</sup> C(2017) 2610.

<sup>62</sup> COM(2017) 287 final. <http://ec.europa.eu/social/BlobServlet?docId=17834&langId=en>

<sup>63</sup> COM(2016) 377 final.

## Chapter II – Fair working conditions

### Principle 5 - Secure and adaptable employment

a. Regardless of the type and duration of the employment relationship, workers have the right to fair and equal treatment regarding working conditions, access to social protection and training. The transition towards open-ended forms of employment shall be fostered.

b. In accordance with legislation and collective agreements, the necessary flexibility for employers to adapt swiftly to changes in the economic context shall be ensured.

c. Innovative forms of work that ensure quality working conditions shall be fostered. Entrepreneurship and self-employment shall be encouraged. Occupational mobility shall be facilitated.

d. Employment relationships that lead to precarious working conditions shall be prevented, including by prohibiting abuse of atypical contracts. Any probation period should be of reasonable duration.

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#### 1. Existing EU law in this field

##### *a) The Charter of Fundamental Rights of the European Union*

Article 31 of the Charter, entitled 'Fair and just working conditions', gives every worker the right to working conditions that respect his or her health, safety and dignity. Article 34 of the Charter affirms respect for the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by EU and national laws and practices.

##### *b) EU legislative powers and their limits*

Article 153(2) of the Treaty on the Functioning of the European Union (TFEU) empowers the EU to adopt measures to support and complement the activities of Member States *inter alia* in the areas of working conditions, social security and social protection of workers. Directives adopted on the basis of Article 153 TFEU shall avoid imposing administrative, financial and legal constraints in a way that would hold back the creation and development of small and medium-sized businesses. Article 153(4) states that any acts adopted under Article 153 shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof.

Article 162 TFEU states that the European Social Fund shall aim to increase *inter alia* the geographical and occupational mobility of workers within the EU, and to help their adaptation to industrial changes and to changes in production systems.

Article 166 TFEU states that the EU shall implement a vocational training policy. This policy must support and supplement the vocational training policy of Member States. At the same time, it must fully respect the responsibility of the Member States for the content and organisation of vocational training.

*c) Existing measures in this field*

Three Directives have already been enacted to protect workers working under non-standard employment relationships: the Framework Agreement on part-time work concluded by social partners (UNICE, CEEP and the ETUC) and annexed to Council Directive 97/81/EC<sup>64</sup>. It protects part-time workers from being treated less favourably than comparable full-time workers. It also requires employers to give consideration to requests by workers to transfer from full-time work to part-time work or vice-versa. The Framework Agreement on fixed-term work was also concluded by social partners (ETUC, UNICE and CEEP) and annexed to Council Directive 1999/70/EC<sup>65</sup>. This agreement protects fixed-term workers from being treated less favourably than comparable permanent workers and requires Member States to take measures to prevent abuse arising from the use of successive fixed-term contracts. Directive 2008/104/EC of the European Parliament and of the Council<sup>66</sup> on temporary agency work establishes equal treatment in the essential conditions of work of employment between temporary agency workers and workers directly recruited by the user company.

In addition, Council Directive 91/533/EEC<sup>67</sup> (the Written Statement Directive) gives workers the right to be notified in writing of the essential aspects of their employment relationship at the latest two months after the employment started.

The Commission supports innovative business models that help people in the EU enter employment, make work flexible and create new sources of income.<sup>68</sup>

The Entrepreneurship 2020 action plan<sup>69</sup> sets out a vision and concrete measures to foster the entrepreneurial spirit in Europe. Measures to support self-employment at EU level also aim to reach groups of people whose entrepreneurial potential is not yet fully exploited. This is particularly the case for women, who represent only 29% of entrepreneurs in Europe. Dedicated actions to develop

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<sup>64</sup> Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC, OJ L14, 20.1.1998, p.9.

<sup>65</sup> Council Directive 1999/70/EC of 28 June 1999 concerning the Framework Agreement on fixed-term work concluded by UNICE, CEEP and the ETUC, OJ L175, 10.7.1999, p.43.

<sup>66</sup> Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work, OJ L327, 5.12.2008, p.9.

<sup>67</sup> Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship, OJ L 288, 18.10.1991, p.32.

<sup>68</sup> See in this respect the Communication on A European agenda for the collaborative economy of 2.6.2016, COM(2016) 356 final.

<sup>69</sup> Communication from the Commission, Entrepreneurship 2020 Action Plan, COM(2012) 795 final, 9.1.2013.

social entrepreneurship were proposed by the Expert Group on Social Entrepreneurship (GECES) report<sup>70</sup> adopted in 2016.

Promoting greater mobility of workers (both geographical and occupational) in a fair way is an objective of both the European Network of Public Employment Services (PES), established through the Decision No 573/2014/EU of the European Parliament and Council, and of the EURES Network established through the Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 on a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets.

Labour mobility is encouraged and supported by the European Social Fund under its thematic objective 8 on employment and labour mobility, including at transnational level<sup>71</sup>.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar reflects the challenges posed by the changing world of work and new forms of employment. It endorses diversity of employment relationships, entrepreneurship and self-employment. But it also establishes safeguards to prevent abuse that can lead to precarious employment relationships. It also lays down certain guarantees to ensure workers can access training and social security throughout the course of their career.

The Pillar extends the guarantee of equal treatment beyond the three forms of employment relationships (part-time, fixed-term and agency work) currently covered by existing EU law in this area. It provides for equal treatment between workers irrespective of the type of employment relationship. It also supports transitions towards open-ended employment relationships.

The Pillar recognises the necessary flexibility for employers to adapt swiftly to changes in the economy. Such adaptations can for instance include differential treatment on objective grounds or adaptations in working conditions to avoid excessive job losses during downturns. Changes that employers make to working conditions cannot be unilateral and need to be circumscribed within the limits of existing legislation and collective bargaining agreements.

The Pillar also extends the material scope of the equal treatment principle to guarantee access to social protection and to training. The principle ensures equal treatment in accessing statutory social security. Current EU rules (for part-time and fixed-term work) require employers to facilitate access to training. The Pillar principle goes beyond this and *requires* equality of treatment in access to training.

However, equal treatment may not always be sufficient to prevent precarious employment. The Pillar principle therefore explicitly prohibits abuse. It goes beyond existing EU law to prohibit both abuse of employment relationships leading to precariousness and unreasonably long probation periods point.

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<sup>70</sup> [http://ec.europa.eu/growth/sectors/social-economy/enterprises/expert-groups\\_en](http://ec.europa.eu/growth/sectors/social-economy/enterprises/expert-groups_en)

<sup>71</sup> Regulation 1304/2013 on the European Social Fund (ESF)

Measures to prevent this abuse can include differential taxation of employment relationships leading to precariousness or the establishment of *bonus malus* systems for the social security contributions.

The Pillar underlines the importance of supporting emerging business models, innovative forms of work, entrepreneurship and self-employment. In general, new business models have the potential to create opportunities. They can facilitate entry into employment, work flexibility and new sources of income. But support for new business models should be premised on a requirement for quality working conditions. Maximising the employment impact of such new business models requires greater occupational mobility. Occupational mobility can be increased by improving access to vocational training and re-qualification and a social protection system that fosters and facilitates career changes.

### 3. Implementation

#### *a) What Member States and Social Partners can do*

Each Member State may define the balance between security and flexibility on its labour market differently. To give effect to the provisions of the Pillar, Member States are nevertheless invited to ensure that their employment and social rules are adapted to the emergence of new forms of work, in addition to transposing and enforcing rules adopted at EU level.

At EU level, social partners are to be consulted in accordance with Article 154 TFEU on possible initiatives envisaged under Article 153 TFEU. They can sign agreements which can be implemented at EU level in accordance with Article 155 TFEU upon their request. Social partners may also collect and exchange good practices across the EU. Nationally, social partners can support the implementation of this Principle via collective bargaining and through involvement in the design and implementation of relevant policies.

#### *Good practice in the spirit of the Pillar*

In **Finland** the government has submitted a proposal to Parliament on legislation concerning employees with alternating working hours. The possibility to agree on alternating working hours would be restricted to jobs characterised by a highly fluctuating amount of work. Moreover, the employer would be required to inform the employees in which situations they will be called on to work. The employee's right to paid sick leave and paid notice period would be guaranteed. When planning the work schedule, the employer shall give employees who work alternating working hours the opportunity to state how much and under what circumstances s/he will be available to work, in case the employer plans to offer the employee more work than the agreed minimum amount. The amendments shall enter into force on 1 June 2018.

In **Belgium** a law on workable and flexible work was adopted in March 2017 aiming to facilitate more flexibility for employers and employees alike and simplify the combination of work and private life. Working time can now be set on an annual basis, the use of overtime has been relaxed, the

formalities for part-time work have been simplified and a legal framework for occasional telework has also been created. At the sectoral level, the social partners now have the option of further adapting working hours and of further fine-tuning the relationship between employers and employees (through employer groups or through open-ended temporary employment).

*b) Recent and ongoing initiatives at EU level*

Following a two-stage consultation of the social partners on the revision of Directive 91/533/EEC (the Written Statement Directive), the Commission proposed in December 2017 a new Directive for more transparent and predictable working conditions across the EU<sup>72</sup>. The proposal complements and modernises existing obligations to inform each worker of his or her working conditions. In addition, the proposal creates new minimum standards to ensure that all workers, including those on atypical contracts, benefit from more predictability and clarity as regards their working conditions.

The Commission is presenting a proposal for a recommendation on "Access to Social Protection for workers and the self-employed" as part of the "Social Fairness Package". The proposed recommendation aims at supporting all self-employed and non-standard workers who, due to their contract type or employment status, are not sufficiently protected by social security schemes regarding unemployment, sickness and healthcare, maternity or paternity, accidents at work and occupational diseases, disability and old age. The proposed recommendation,<sup>73</sup> seeks to address gaps in access to social protection faced by people employed on non-standard contracts and in various forms of self-employment. It also seeks to make rights transferable and transparent when changing employer or contract type, or when transitioning to self-employment.

The Commission is also putting forward a proposal for a European Labour Authority as part of the "Social Fairness Package". Under this proposal, the Authority will aim to strengthen fairness and efficiency in the European labour market by facilitating cross-border labour mobility. It will help Member States ensure that workers' and citizens' rights to equal treatment and opportunities regarding employment and social protection are guaranteed in cross-border situations.

In 2018, the Commission expects to complete a REFIT evaluation of the Directives which give effect to the Social Partner Framework Agreements on fixed-term and part-time work.

As part of the Pillar Package, the Commission adopted an Interpretative Communication on the Working Time Directive<sup>74</sup> setting out the Directive's provisions together with the key judgments in an accessible format. Its aim is to make the rights and obligations arising from the Directive clearer and more intelligible.

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<sup>72</sup> COM/2017/0797 final - 2017/0355 (COD)

<sup>73</sup> C(2017) 2610.

<sup>74</sup> Interpretative Communication on Directive 2003/88/EC of the European Parliament and of the Council concerning certain aspects of the organisation of working time, C/2017/2601, OJ C 165, 24.5.2017, p. 1–58.

Eurofound, the European Foundation for the Improvement of Living and Working Conditions, is also active in supporting implementation. As one of the EU's decentralised agencies, it supports the work of the Commission, Member States and social partners on working conditions, sustainable work and industrial relations. It monitors structural change and manages restructuring, focusing also on opportunities and challenges in the digital age.



## Principle 6 - Wages

**a. Workers have the right to fair wages that provide for a decent standard of living.**

**b. Adequate minimum wages shall be ensured, in a way that provide for the satisfaction of the needs of the worker and his / her family in the light of national economic and social conditions, whilst safeguarding access to employment and incentives to seek work. In-work poverty shall be prevented.**

**c. All wages shall be set in a transparent and predictable way according to national practices and respecting the autonomy of the social partners.**

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### 1. Existing EU law in this field

#### *a) The Charter of Fundamental Rights of the European Union*

Article 31 of the Charter, entitled 'Fair and just working conditions', gives every worker the right to working conditions which respect his or her health, safety and dignity.

#### *b) The legislative powers and their limits*

Article 153(5) TFEU provides that the provisions of Article 153 TFEU shall not apply to pay.

Article 145 TFEU, requires the EU and the Member States to work towards developing a coordinated strategy for employment. Article 147 TFEU requires the EU to contribute to a high level of employment by encouraging cooperation between Member States and by supporting - and if necessary complementing - their action. In doing so, the competences of Member States shall be respected.

#### *c) Existing measures in this field*

The EU and its Member States together pursue the European Employment Strategy. This includes monitoring wage and minimum-wage developments and the underlying wage-setting mechanisms.<sup>75</sup> Trends in labour costs, including their wage component, are also monitored under the EU economic policy coordination process under Articles 120 and following TFEU. As provided for in Art 136 (1) (b) TFEU, economic policy recommendations are also addressed to the euro area, and this may include the monitoring of labour costs.<sup>76</sup> The surveillance under Regulation (EU) No 1176/2011<sup>77</sup> of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances includes the monitoring of competitiveness developments, including labour costs.

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<sup>75</sup> See, for example, Council Decision (EU) 2015/1848 of 5 October 2015 on guidelines for the employment policy of the Member States for 2015, OJ 268, 15.10.2015, p.28.

<sup>76</sup> See, for example, the Council Recommendation of 17 January 2018 on the economic policy of the euro area, p. 4.

<sup>77</sup> OJ L 306, 23.11.2011, p. 25.

Commission Recommendation 2008/867/EC<sup>78</sup> of 3 October 2008 sets out an integrated, comprehensive strategy for the active inclusion of those excluded from the labour market, including the promotion of quality work, in particular for pay and benefits, with a view to preventing in-work poverty.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar sets out the right to fair wages providing for a decent standard of living for all workers. Comparable rights are already included in the 1989 Community Charter of the Fundamental Social Rights of Workers,<sup>79</sup> (one of the sources of Title X on Social Policy of the TFEU), as well as in the (revised) European Social Charter.

The Pillar foresees a level of the minimum wage that takes into consideration both (i) the needs of workers and their families and (ii) social factors such as the evolution of the standards of living and (iii) economic factors, which include the need to keep wage developments in line with productivity developments to safeguard access to employment of the most vulnerable workers. The Pillar recognises the role of minimum wages in combatting poverty, while avoiding employment traps. Minimum wages boost the incomes of poor families and provide fair compensation from work for those on low incomes, increasing their incentives to work. Other measures may include (i) reducing the tax burden on low-wage earners and their families, and (ii) supplementing income from work with effective social benefits.

The Pillar requires that all wages are set in a *transparent and predictable way*, in full respect of national practice, notably as concerns the right to collective bargaining of social partners and their autonomy. On minimum wages, most Member States have a national statutory minimum wage. This is a regulatory instrument making a single wage floor legally binding for all employees. A few Member States do not have a statutory minimum wage and different wage floors are set by the social partners through collective agreements, often at sector level. The Pillar does not challenge in any way this diversity of practices and recognises the autonomy of the social partners. Within this context, *transparency* means that well-established consultation procedures should be followed when setting the minimum wage. This procedure should lead to consensus between relevant national authorities and the social partners, and possibly build on input from other stakeholders and independent experts. In addition, the Pillar calls for ensuring the *predictability* of wage decisions, for example through the definition of rules such as adjustment to the cost of living for minimum wages.

## **3. Implementation**

*a) What Member States and Social Partners can do*

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<sup>78</sup> OJ L307, 18.11.2008, p.11.

<sup>79</sup> The Community Charter of Fundamental Social Rights of Workers - December, 9th 1989.

Member States and the social partners are responsible for the definition of wage and minimum wage developments in accordance with their national practices, as set in their collective bargaining and minimum-wage-setting systems. They are invited to give effect to the provisions of the Pillar through transparent minimum-wage-setting mechanisms and effective collective bargaining at national, sector and firm level. They are also invited to take complementary measures to avoid in-work poverty.

Furthermore, Member States may ratify (if they have not already done so) and apply (i) ILO N° 131 Convention on minimum-wage fixing and (ii) Convention N° 154 on the promotion of collective bargaining.

At EU level, social partners must be consulted in accordance with Article 154 TFEU on possible initiatives based on Article 153 TFEU, and can sign agreements which may be implemented at EU level at their request in accordance with Article 155 TFEU. Social partners may also collect and exchange good practices across the EU. Nationally, social partners can support the implementation of the Pillar through collective bargaining and through involvement in the design and implementation of relevant policies.

*Good practice in the spirit of the Pillar*

In **Germany** important steps were taken to support adequate minimum wages with the introduction of a statutory minimum wage in 2015 and the increase of this minimum wage in January 2017.

*b) Recent and ongoing initiatives at EU level*

Minimum wages and other measures to address in-work poverty, as well as more general issues related to wage developments are addressed in Country Specific Recommendations within the European Semester process.

## **Principle 7 - Information about employment conditions and protection in case of dismissals**

**a. Workers have the right to be informed in writing at the start of employment about their rights and obligations resulting from the employment relationship, including on probation period.**

**b. Prior to any dismissal, workers have the right to be informed of the reasons and be granted a reasonable period of notice. They have the right to access to effective and impartial dispute resolution and, in case of unjustified dismissal, a right to redress, including adequate compensation.**

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### **1. Existing EU law in this field**

#### *a) The Charter of Fundamental Rights of the European Union*

Article 27 of the Charter gives every worker the right to be guaranteed information and consultation in good time and at the appropriate levels, in the cases and under the conditions provided for by EU law and national laws and practices. Article 30 of the Charter lays down the right for every worker to be protected against unjustified dismissal, in accordance with EU law and national laws and practices. Article 47 of the Charter guarantees an effective remedy to everyone whose rights and freedoms guaranteed by EU law are violated.

#### *b) EU legislative powers and their limits*

Under Article 153(2) of the Treaty on the Functioning of the European Union (TFEU), the EU is empowered to adopt measures to support and complement the activities of Member States in the fields of *inter alia* working conditions, protection of workers where their employment contract is terminated, and information and consultation of workers. Directives adopted on the basis of Article 153 TFEU must avoid imposing administrative, financial and legal constraints in a way that would hold back the creation and development of small and medium-sized businesses.

#### *c) Existing measures in this field*

Council Directive 91/533/EEC<sup>80</sup> (the Written Statement Directive) gives workers the right to be notified in writing of the essential aspects of their employment relationship, at the latest two months after the employment started. It does not contain specific obligations in relation to probation periods. The Written Statement Directive requires an employer to notify an employee of the length of the periods of notice to be observed should their contract or employment relationship be terminated. Where this cannot be indicated at the time when the information is given, it requires the employer to notify the employee of the method for determining such periods of notice.

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<sup>80</sup> Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship, OJ L 288, 18.10.1991, p.32.

Directive 2001/23/EC<sup>81</sup>, which regulates workers' rights in the case of transfer of undertakings, states that the transfer of an undertaking does not in itself constitute valid grounds for dismissal. Council Directive 92/85/EEC<sup>82</sup> on maternity protection and the revised Framework Agreement on parental leave concluded by social partners (BusinessEurope, UEAPME, CEEP and ETUC) are annexed to Council Directive 2010/18/EU<sup>83</sup>. These two instruments provide, respectively, specific protection against dismissal for women during their pregnancy and for parents taking paternity or adoption leave. Council Directive 2000/78/EC<sup>84</sup> (the Employment Equality Directive) on equal treatment in employment and occupation protects workers against dismissal where there is discrimination on a prohibited ground, including victimisation. Protection against unfavourable treatment is also provided under EU law through the Part-time Work Directive<sup>85</sup>, the Gender Equality Directive,<sup>86</sup> the Directive on equal treatment between men and women engaged in an activity in a self-employed capacity<sup>87</sup> and the Parental Leave Directive,<sup>88</sup> and has been reinforced by the case-law of the Court of Justice of the EU.

Council Directive 98/59/EC<sup>89</sup> on collective redundancies requires employers to inform and consult workers' representatives and to notify public authorities prior to collective redundancies.

The Council Recommendation of 10 March 2014 on a Quality Framework for Traineeships<sup>90</sup> aims to enhance the quality of traineeships, providing quality elements that are directly transferable to national legislation or social partner agreements. They relate in particular to learning content, working conditions, and transparency regarding financial conditions and hiring practices.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

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<sup>81</sup> Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, OJ L 82, 22.3.2001, p.6.

<sup>82</sup> Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, OJ L 348 of 28.11.1992, p. 1.

<sup>83</sup> Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSSEUROPE, UEAPME, CEEP and ETUC, OJ L68, 18.3.2010, p.13.

<sup>84</sup> Other EU anti-discrimination directives (such as Directive 2006/54/EC or Directive 2000/43/EC) also provide specific protection against unfair dismissal.

<sup>85</sup> Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC, OJ L14, 20.1.1998, p.9.

<sup>86</sup> Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the Principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) OJ L 204, 26.7.2006, p. 23.

<sup>87</sup> Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the Principle of equal treatment between men and women engaged in an activity in a self-employed capacity, OJ L 180, 15.7.2010, p.1.

<sup>88</sup> Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC, OJ L 68, 18.3.2010, p. 13.

<sup>89</sup> Council Directive 98/59/EC on the approximation of the laws of the Member States relating to collective redundancies, OJ L 225, 12.08.1998, p. 16.

<sup>90</sup> Council Recommendation of 10 March 2014 on a Quality Framework for Traineeships, OJ C 88, 27.3.2014, p. 1.

The Pillar requires written information to be provided to the worker about his or her working conditions *at the start* of the employment relationship, rather than within the two months currently provided for by the Written Statement Directive. Since probation periods are significant for most employment relationships, the Pillar also adds information duties for the probation period. These changes will increase awareness of rights on the part of employers and workers. They should also help reduce undeclared work.

The Pillar also goes beyond the existing EU law by introducing procedural and substantive safeguards for workers in case of dismissals. It requires adequate reasoning to be provided and a reasonable period of notice be respected. Moreover, the Pillar provides that workers should have access to effective and impartial dispute-resolution procedures. These can include arbitration, mediation or conciliation procedures. The Pillar also introduces the right to adequate redress in case of unjustified dismissals, such as re-instatement or pecuniary compensation. Unjustified dismissals are dismissals that are in breach of the rules applicable to the employment relationship in question.

### 3. Implementation

#### *a) What Member States and Social Partners can do*

Member States are in charge of transposing and enforcing rules adopted at EU level. Given that the EU measures set out above contain minimum standards, Member States are invited to go beyond these rules in order to give effect to the Pillar.

Furthermore, Member States are invited to ratify ( if they have not already done so) and apply relevant ILO Conventions such as (i) Convention N° 122 on Employment Policy, (ii) Convention N ° 144 on Tripartite Consultations, (iii) Convention N° 135 on Workers' Representatives and (iv) Convention N° 154 on Promotion of Collective Bargaining.

At EU level, social partners must be consulted in accordance with Article 154 TFEU on possible initiatives based on Article 153 TFEU, and can sign agreements which may be implemented at EU level at their request in accordance with Article 155 TFEU. Social partners may also collect and exchange good practices across the EU. Nationally, social partners can support the implementation of this Principle via collective bargaining and through involvement in the design and implementation of relevant policies.

#### *Good practice in the spirit of the Pillar*

In December 2017, **Bulgaria** amended its Labour Code and introduced a guarantee for payment of compensations due in case of termination of the employment relationship. These compensations must be paid no later than the last day of the month following the month of termination.

In **Lithuania**, the new Labour Code imposes a compulsory pre-trial procedure for almost all types of individual and collective labour disputes. While prior to the reform, the collective disputes and cases related to dismissal were directly litigated before the general jurisdiction courts, now a special

tripartite commission (Individual Labour Grievances Commission under the State Labour Inspectorate) is competent to hear all cases on the infringement of individual and collective labour rights.

*b) Recent and ongoing initiatives at EU level*

Following a two-stage consultation of the social partners on the revision of Directive 91/533/EEC (the Written Statement Directive), the Commission proposed in December 2017 a new Directive for more transparent and predictable working conditions across the EU<sup>91</sup>. The Commission's proposal complements and modernises existing obligations to inform each worker of his or her working conditions. In addition, the proposal creates new minimum standards to ensure that all workers, including those on atypical contracts, benefit from more predictability and clarity as regards their working conditions.

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<sup>91</sup> COM/2017/0797 final - 2017/0355 (COD)

## Principle 8 - Social dialogue and involvement of workers

a. The social partners shall be consulted on the design and implementation of economic, employment and social policies according to national practices. They shall be encouraged to negotiate and conclude collective agreements in matters relevant to them, while respecting their autonomy and the right to collective action. Where appropriate, agreements concluded between the social partners shall be implemented at the level of the Union and its Member States.

b. Workers or their representatives have the right to be informed and consulted in good time on matters relevant to them, in particular on the transfer, restructuring and merger of undertakings and on collective redundancies.

c. Support for increased capacity of social partners to promote social dialogue shall be encouraged.

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### 1. Existing EU law in this field

#### *a) The Charter of Fundamental Rights of the European Union*

Article 28 of the Charter provides that workers and employers, or their respective organisations, have, in accordance with EU law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels. In cases of conflicts of interest, article 28 gives them the right to take collective action to defend their interests, including strike action. Article 27 of the Charter guarantees every worker the right at the appropriate levels to information and consultation in good time in the cases and under the conditions provided for by EU law and national laws and practices.

#### *b) EU legislative powers and their limits*

Article 151 of the Treaty on the Functioning of the European Union (TFEU) enshrines the promotion of dialogue between management and labour as a common objective of the EU and the Member States. Article 153(2) TFEU, empowers the EU to adopt measures to support and complement the activities of Member States in the fields of (i) the information and consultation of workers, and (ii) the representation and collective defence of the interests of workers and employers, including codetermination. The powers given by Article 153 TFEU do not apply to pay, the right of association, the right to strike or the right to impose lock-outs. Directives adopted on the basis of Article 153 TFEU must avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized businesses.

#### *c) Existing measures*



Directive 2002/14/EC of the European Parliament and of the Council<sup>92</sup> on informing and consulting workers (the Information and Consultation Directive) aims at ensuring workers' involvement before decision-making by management, notably where restructuring is envisaged. Directive 2009/38/EC of the European Parliament and of the Council on the establishment of a European Works Council<sup>93</sup> addresses the need for proper information and consultation processes in the case of EU-wide companies through the setting up of European Works Councils to deal with transnational issues that could affect workers. Council Directive 98/59/EC<sup>94</sup> on collective redundancies and Council Directive 2001/23/EC<sup>95</sup> on the transfer of undertakings go beyond ensuring the information and consultation of workers' representatives. For instance, the latter Directive ensures the safeguarding of workers' rights when a business is transferred from one employer to another.

The EU Quality Framework for anticipation of change and restructuring<sup>96</sup> promotes principles and good practices addressed to employers, employees, social partners and public authorities with regard to the anticipation of change and the management of the restructuring processes.

The Joint Statement signed by the Presidency of the Council of the European Union, the European Commission and the European Social Partners on "A New Start for Social Dialogue"<sup>97</sup> emphasises (i) the importance of capacity-building of national social partners, (ii) the strengthened involvement of social partners in EU policy and law-making and (iii) the commitment to promote cross-industry and sectoral social dialogue, including their outcomes at all levels.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar sets the right for social partners to be involved in the design and implementation of employment and social policies, and supports their greater involvement in policy and law-making while taking into account the diversity of national systems. Implementing this aspect of the Pillar entails setting the appropriate institutional or legal framework at EU and national level, by giving a clear role to social partners not only in consultation and preparation of relevant legislation and policies, but also in their implementation and enforcement.

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<sup>92</sup> Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community, OJ L 80, 23.3.2002, p. 29.

<sup>93</sup> OJ L 122, 16.5.2009, p.28.

<sup>94</sup> Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies, OJ L 225, 12.08.1998, p. 16.

<sup>95</sup> Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, OJ L 82, 22.03.2001, p. 16.

<sup>96</sup> Communication from the Commission, EU Quality Framework for anticipation of change and restructuring, COM (2013) 0882 final, 13.12.2013.

<sup>97</sup> A new start for Social Dialogue - Statement of the Presidency of the Council of the European Union, the European Commission and the European Social Partners, June 16, 2016. <http://ec.europa.eu/social/BlobServlet?docId=15738&langId=en>

The Pillar entitles all workers in all sectors to be informed and consulted directly or through their representatives on matters relevant to them such as the transfer, restructuring and merger of undertakings and collective redundancies. It looks beyond existing EU law given that (i) it applies regardless of the staff numbers involved; (ii) it covers both the restructuring and merger of companies; and (iii) the right is not just to receive information but also to be consulted about any such corporate action, which implies an exchange of views and the establishment of a consistent dialogue with the employer.

Moreover, principle 8b covers any issues that concern workers, whereas existing Directives contain a limited list of topics for engaging in information and consultation processes. By referring to 'matters relevant to them, in particular (...) the transfer, restructuring and merger of undertakings and (...) collective redundancies', it goes further than Article 27 of the Charter. Article 27 of the Charter provides for a right to information and consultation 'in the cases and under the conditions provided for by Union law and national laws and practices'.

The provisions of the Pillar highlight that the efforts by the social partners can be complemented by public authorities while respecting the social partners' autonomy. It does so by recognizing that capacity-building is first and foremost a bottom-up process depending on the will and efforts of the social partners themselves. Capacity-building refers to increasing the representativeness of social partners and to strengthening their operational, analytical and legal capabilities to engage in collective bargaining and to contribute to policymaking. This support can take the form of setting the appropriate institutional/legal framework, by giving a clear role to social partners in policymaking and also by providing financial support.

### **3. Implementation**

#### *a) What Member States and Social Partners can do*

While respecting the autonomy of the social partners, Member States are invited to involve the social partners closely in the design and implementation of relevant reforms and policies. Member states are also invited to help the social partners improve the functioning and effectiveness of social dialogue and industrial relations at national level. Member States are also invited to encourage good practices for informing and consulting workers and their representatives.

Social partners can collect and exchange good practices across the EU. Nationally, social partners can support the implementation of this principle via collective bargaining and through involvement in the design and implementation of relevant policies.

Social partners can improve membership and representativeness of both trade unions and employers' organisations, particularly with regard to their capacity to represent the self-employed, workers on all types of employment relationships, young people, people with a migrant background and women, micro and small enterprises. They can also help build legal and technical expertise in

order to facilitate their proper involvement in the design and implementation of employment and social policies at both national and EU level.

*Good practice in the spirit of the Pillar*

**Italian** social partners signed a new agreement on the representativeness of trade unions. In **Denmark**, a tripartite agreement on adult education and training aims at improving upskilling. The **French** government is involving social partners in the negotiations on the reforms of vocational training and unemployment insurance. In **Portugal**, following the publication of a Green Book on Labour Relations, the government began discussions with social partners on measures to tackle labour market segmentation. In **the Netherlands**, social partners are being closely involved in the reform of the pension system. **Estonia, Latvia, Lithuania** and **Slovakia** have used support from the European Social Fund to enhance social partners' capacity to contribute to designing key reforms.

*b) Recent and ongoing initiatives at EU level*

At EU level, social partners must be consulted in accordance with Article 154 TFEU on possible initiatives based on Article 153 TFEU, and may sign agreements which may be implemented at EU level at their request in accordance with Article 155 TFEU. Social partners may also collect and exchange good practices across the EU.

The Tripartite Social Summit for Growth and Employment and the Macroeconomic Dialogue remain the crucial fora for political-level discussions with social partner representatives.

The EU social partners in different industries committed to promote capacity-building and improve the implementation of their autonomous agreements in their current work programme 2015-2017.

In 2018, the Commission plans to publish a REFIT Evaluation of Directive 2009/38/CE of the European Parliament and of the Council on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees. It will also publish a guidance document concerning the same Directive aimed at improving take up of European Works Councils and their effectiveness.

In 2018, the Commission will report to the other EU institutions and to the social partners on the way the good practices collected in the 2013 "EU quality framework for anticipation of change and restructuring"<sup>98</sup> are being applied by Member States.

The EU will continue to promote investment by the Member States in the capacity-building of social partners. It will also continue to foster the provision of information to employee representatives, and consultation of employee representatives. In doing so, it will take account of national legislation that has transposed the Directives on informing and consulting workers, collective redundancies and European Works Councils.

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<sup>98</sup> COM(2013)882.



## Principle 9 - Work-life balance

**Parents and people with caring responsibilities have the right to suitable leave, flexible working arrangements and access to care services. Women and men shall have equal access to special leaves of absence in order to fulfil their caring responsibilities and be encouraged to use them in a balanced way.**

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### 1. Existing EU law in this field

#### *a) The Charter of Fundamental Rights of the European Union*

Article 23 of the Charter states that equality between men and women must be ensured in all areas, including employment, work and pay. The principle of equality must not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex. Article 33(2) of the Charter states that in order to reconcile family and professional life, everyone must have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child.

#### *b) EU legislative powers and their limits*

Article 153(2) of the Treaty on the Functioning of the European Union (TFEU) empowers the EU to adopt measures to support and complement the activities of Member States *inter alia* in the fields of workers' health and safety, working conditions and equality between men and women with regard to labour market opportunities and treatment at work. Article 157(3) TFEU empowers the EU to adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. Directives adopted on the basis of Article 153 TFEU must avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized businesses.

#### *c) Existing measures in this field*

Council Directive 92/85/EEC<sup>99</sup> requires Member States to provide workers with maternity leave of at least 14 weeks, with an allowance at least at the level of sick pay. Directive 2010/41/EU of the European Parliament and of the Council<sup>100</sup> stipulates that female self-employed workers and the female spouses and life partners of self-employed workers need to be granted sufficient maternity

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<sup>99</sup> Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, OJ L 348, 28.11.1992, p.1.

<sup>100</sup> Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the Principle of equal treatment between men and women engaged in an activity in a self-employed capacity, OJ L 180, 15.7.2010, p.1.

allowance to enable the interruption of their occupational activity because of pregnancy or motherhood, for a period of at least 14 weeks. The revised Framework Agreement on parental leave concluded by social partners (BusinessEurope, UEAPME, CEEP and ETUC) - implemented at EU level by Council Directive 2010/18/EU<sup>101</sup> - gives male and female workers an individual right to parental leave of at least four months. It also requires Member States to take measures to ensure that workers may request a change to their working hours and/or patterns when returning from parental leave, for a set period of time. The Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC - implemented by Directive 97/81/EC<sup>102</sup> - protects part-time workers from being treated less favourably than full-time workers and requires employers to give consideration to requests by workers to switch from full-time work to part-time work or vice-versa.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar highlights the importance of work-life balance for all people with caring responsibilities and confers rights that are essential to attain this balance in today's working environment, such as the right to access childcare or long-term care. The principle goes beyond existing EU law by providing rights for *all people in employment with caring responsibilities*. It will hence also apply to people in employment who are not parents, but who may, for example, care for elderly or disabled family members.

The Pillar confers *a right to request flexible working arrangements* such as teleworking, adaptation of working schedules or switching between full-time and part-time work. That right to flexible working arrangements currently exists in EU legislation only when a worker returns to work following parental leave.

On gender equality, the Pillar sets a new focus on ensuring equal access for women and men to special leave arrangements. The balanced use of these arrangements by men and women should be encouraged, for instance by adjusting the level of payment, or conditions related to flexibility and non-transferability.

## **3. Implementation**

### *a) What Member States and Social Partners can do*

Member States are in charge of transposing and enforcing rules adopted at EU level. Given that the EU measures set out above contain minimum standards, Member States are invited to go beyond these rules in order to give effect to the provisions of the Pillar.

At EU level, social partners must be consulted in accordance with Article 154 TFEU on possible initiatives based on Article 153 TFEU and can request implementation of their agreements at EU level in accordance with Article 155 TFEU. Social partners can also collect and exchange good practices

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<sup>101</sup> Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC, OJ L68, 18.3.2010, p.13.

<sup>102</sup> Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC, OJ L14, 20.1.1998, p.9.

across the EU. Nationally, social partners can support the implementation of this Principle via collective bargaining and through involvement in the design and implementation of relevant policies.

The EU social partners at cross-industry level selected reconciliation of work, private and family life as a priority for their current work programme 2015-2017.

*Good practice in the spirit of the Pillar*

**Luxembourg** adopted a law in December 2017, which extends paternity leave from 2 to 10 days starting in January 2018, among a number of other changes of the family leave. The State will reimburse 8 of the 10 days' leave to the employer. This leave also covers the adoption of a child aged under 16.

The corporate programme "Success Factor Family" is the central platform for reconciling work and family life. Together with central **German industry associations** (BDA, DIHK, ZDH) and the **German Trade Union Confederation** (DGB), the **Federal Ministry** for Family Affairs, Senior Citizens, Women and Youth, commits to making family-friendliness a trademark of the German economy. "Success Factor Family" brings together information about the issue of family-friendliness in enterprises.

In December 2017, **Finland** adopted a law which lowers the child care costs for low and middle income families. The measure has entered into force in the beginning of 2018. It is expected to increase incentives to accept work, in particular among women with young children, and to increase the participation of children in early childhood education. Around 6,700 families will not have to pay any child care fees, and it may encourage 4,200 people to move into the labour force.

In **Portugal**, policy measures to promote work-life balance, namely on further extension of parental leave rights have been recently taken. In particular, the country recently extended the period of paternity leave to up to 25 working days (formerly 20 working days), 15 of which are mandatory (previously 10) and must be taken during the first month after the birth.

*b) Recent and ongoing initiatives at EU level*

At the same time as it launched the European Pillar of Social Rights, the Commission presented an initiative "New start to support work-life balance for parents and carers"<sup>103</sup>. The objective of the initiative is to address women's under-representation in the labour market by facilitating the reconciliation of professional and family responsibilities for both women and men. The initiative includes a proposal for a Directive on work-life balance for parents and carers. It also includes a Communication with a number of complementary non-legislative measures, such as supporting more and better childcare and long-term care facilities with EU funding, identifying country-specific obstacles resulting from tax-benefit systems that discourage second-earners (predominantly women) from work, better monitoring of the reconciliation policies in the European Semester and improved data collection and comparability.

<sup>103</sup> COM(2017)253

Two of the EU's decentralised agencies - Eurofound (the European Foundation for the Improvement of Living and Working Conditions) and the European Institute for Gender Equality, are supporting the work of the Commission, Member States and social partners in the area of work-life balance, quality of life and public services.



## **Principle 10 - Healthy, safe and well-adapted work environment and data protection**

- a. Workers have the right to a high level of protection of their health and safety at work.**
  - b. Workers have the right to a working environment adapted to their professional needs and which enables them to prolong their participation in the labour market.**
  - c. Workers have the right to have their personal data protected in the employment context.**
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### **1. Existing EU law in this field**

#### *a) The Charter of Fundamental Rights of the European Union*

Article 31 (1) of the Charter of Fundamental Rights of the European Union gives every worker the right to working conditions that respect his or her health, safety and dignity.

Article 8 of the Charter of Fundamental Rights of the European Union gives everyone the right to the protection of personal data. It gives everyone the right to access data, which has been collected about them, and the right to have it rectified. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Compliance with these rules must be subject to control by an independent authority.

#### *b) EU legislative powers and their limits*

Article 153 (2) of the Treaty on the Functioning of the European Union (TFEU) empowers the EU to adopt measures *inter alia* for the improvement in particular of the working environment to protect workers' health and safety. Directives adopted on the basis of Article 153 TFEU must avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized businesses.

Article 16(1) of the Treaty on the Functioning of the European Union (TFEU) gives everyone the right to the protection of their personal data.

#### *c) Existing measures in this field*

Council Framework Directive 89/391/EEC<sup>104</sup> and 23 related Directives set minimum requirements for the prevention of occupational risks, the protection of safety and health and the elimination of risks and accident factors. The Framework Directive establishes the general principles for a proper

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<sup>104</sup> Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work OJ 1989 L183, 29.6.1989, p.1.

management of safety and health. These principles include the responsibility of the employer, rights and duties of workers, risk assessment as an instrument to continuously improve company processes, or workers' representation. The related Directives tailor these main principles to some specific workplaces and sectors. They also tailor these main principles to specific risks, tasks or categories of workers. The principles define how to assess these risks and, in some cases, set limit exposure values for certain substances and agents.

Directive 92/85/EEC introduces measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding.

The General Data Protection Regulation<sup>105</sup>, replacing the Data Protection Directive<sup>106</sup> allows Member States by law or by collective agreements to provide for more specific rules to ensure the protection of the rights and freedoms of employees. A guidance communication on the direct application of the Regulation was adopted in January 2018.<sup>107</sup>

In its Communication "Safer and Healthier Work for All"<sup>108</sup> the Commission emphasises the need to refocus efforts on ensuring better and broader protection, compliance and enforcement of occupational safety and health standards on the ground. It also announces a number of legislative actions to step up fight against occupational cancer, as well as initiatives to support effective implementation of health and safety rules, especially in microenterprises and small and medium-sized businesses. The Commission invites Member States and social partners to work together to modernise occupational safety and health legislation at EU and national level, while maintaining or improving workers' protection.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar goes beyond existing EU law by aiming at a high level of protection for workers from risks to health and safety at work. It therefore urges Member States and employers to go beyond the minimum requirements laid down in existing EU legislation and to get as close as possible to an accident-free and casualty-free working environment. This means not only applying the rules, but also establishing ever-improving health and safety policies with the help of: (i) web-based tools to facilitate risk assessments, and (ii) dialogue with workers and workplace suppliers. These improvements can be further supported by guidance and feedback.

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<sup>105</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance), OJ L 119, 4.5.2016, p. 1–88.

<sup>106</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data

<sup>107</sup> [https://ec.europa.eu/commission/priorities/justice-and-fundamental-rights/data-protection/2018-reform-eu-data-protection-rules\\_en](https://ec.europa.eu/commission/priorities/justice-and-fundamental-rights/data-protection/2018-reform-eu-data-protection-rules_en)

<sup>108</sup> COM(2017) 12 final, of 10 January 2017.

Principle 10b of the Pillar introduces two inter-related rights. The first goes beyond the protection of health and safety by affording workers the right to a working environment adapted to their specific occupational circumstances. The second right, in accordance also with the principle of active ageing, recognises the need to adapt the working environment in order to enable workers to have sustainable and longer working careers. This means that certain adaptations ( for example better lighting for carrying out clerical work) may be necessary due to the worker's age. Other adjustments, such as more flexible working hours, may be necessary to maintain older workers' health and well-being.

The Pillar also introduces the right to protection of personal data for workers. The processing of personal data by the employer must always be based on a legal justification, normally performance of a contract, compliance with a legal obligation or for the purposes of the legitimate interest pursued by the employer, except where such interest are overridden by the interest or fundamental rights of the worker.

### **3. Implementation**

#### *a) What Member States and social partners can do*

Member States are in charge of transposing and enforcing rules adopted at EU level. Given that the EU measures set out above contain minimum requirements, Member States are invited to go beyond these rules in order to give effect to the principle of a high level of health and safety at work and by encouraging good practices on active ageing at work.

Member States can ratify (if they have not already done so) and apply relevant ILO Conventions such as the Work in Fishing Convention 188, and relevant IMO Conventions, such as the Convention on Standards in Training, Certification and Watch-keeping on Fishing Vessels and the Cape Town Agreement on the Torremolinos Convention for the safety of fishing vessels.

At EU level, social partners must be consulted in accordance with Article 154 TFEU on possible initiatives based on Article 153 TFEU and can request their agreements to be implemented at EU level in accordance with Article 155 TFEU. In particular, they can promote and develop joint standards at national or EU level to adapt workplaces to accommodate active aging and intergenerational approach. European social partners signed on 8 March 2017 an autonomous agreement on active ageing and intergenerational approach also covering health and safety to be implemented by national social partners by 2020.

Social partners can also collect and exchange good practices across the EU. Nationally, social partners can support the implementation of this principle via collective bargaining and through involvement in the design and implementation of relevant policies.

*Good practice in the spirit of the Pillar*

In August 2017, **Malta** adopted a guide on the Safe use of tail lifts. While seeming an uncomplicated task, operating a tail lift holds many hidden dangers that could cause operators a lot more problems than just damaged merchandise. These problems could vary from minor injuries to fatalities. In the light of this, the Maltese Occupational Health and Safety Authority issued a new guidance document on the safe use of tail lifts.

*b) Recent and ongoing initiatives at EU level*

The Commission has recently proposed amendments to Directive 2004/37/EC<sup>109</sup> (the Carcinogens and Mutagens Directive) aimed at improving protection for millions of workers by revising or establishing binding occupational exposure limit values for a number of dangerous chemical agents.<sup>110</sup> The first part of these proposals was adopted as a Directive in December 2017.<sup>111</sup> The second wave of amendments<sup>112</sup>, which the Commission put forward in January 2017, is currently under discussion. The Commission – in consultation with the social partners - will continue to propose further updates of the Carcinogens and Mutagens Directive to introduce binding limit values to combat occupational cancer. A new proposal is planned for early 2018.

The Commission will support the implementation of EU legislation by improving compliance with the rules, in particular in micro-enterprises and SMEs. The Commission will also make proposals to remove or update outdated health and safety provisions in the light of scientific, technical and societal changes. It will refocus efforts on ensuring better protection, compliance and enforcement on the ground, by developing guidance for employers, among other things. The publication of non-binding guides to good practice on agriculture, fishing vessels and work-related vehicle risks was completed during 2017.

The Directive transposing the ILO Work in Fishing Convention 188, except its enforcement provisions, entered into force in November 2017.

The Commission has launched a peer review process with Member States with the specific aim of reducing the administrative burden in national legislation while maintaining worker protection and, in cooperation with the European Agency for Safety and Health at Work, further foster the development of relevant IT tools. The first event on the use of web-based tools for OSH risk assessment took place in October 2017.

The European Agency for Safety and Health at Work, one of the EU's decentralised agencies, is playing a key role in collecting and disseminating good practice. As part of this role, it supports

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<sup>109</sup> Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC), OJ L158, 30.4.2004, p.50.

<sup>110</sup> COM(2016) 248 and COM (2017) 11.

<sup>111</sup> Directive (EU) 2017/2398 of the European Parliament and of the Council of 12 December 2017 amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work; OJ L 345, 27.12.2017, p. 87.

<sup>112</sup> COM(2017) 11 final

experience sharing, notably through the Healthy Workplaces campaigns. The "Healthy Workplaces for All Ages" campaign concluded in 2017, and contributed to publicising a wealth of examples from across the EU. In 2018, the Commission will aim to improve the practical application of age-sensitive risk management measures by developing and disseminating relevant guidance for labour inspectors. The Agency will launch the next Healthy Workplaces campaign in 2018, focusing on dangerous substances to support the Commission's effort to fight occupational cancer. To facilitate the application of data protection rules, the Article 29 Working Party (composed of the 28 national Data Protection Authorities) will issue in 2017 an opinion on personal data processing in an employment context.

## Chapter III – Social protection and inclusion

### Principle 11 - Childcare and support to children

- a. Children have the right to affordable early childhood education and care of good quality.**
  - b. Children have the right to protection from poverty. Children from disadvantaged backgrounds have the right to specific measures to enhance equal opportunities.**
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#### 1. Existing EU law in this field

##### *a) The Charter of Fundamental Rights of the European Union*

Article 14 of the Charter gives everyone the right to education, including the right to free compulsory education. Article 24(1) of the Charter gives children the right to such protection and care as is necessary for their wellbeing.

##### *b) The legislative powers and their limits*

Article 153 (2) of the Treaty on the Functioning of the European Union (TFEU) empowers the EU to adopt measures to support and complement the activities of its Member States in the fields of combating social exclusion and modernising social protection systems. Article 165 TFEU empowers the EU to contribute to the development of quality education by encouraging policy cooperation between the Member States and, if necessary, by supporting and implementing their action. Under Article 156 TFEU, with a view to achieving the objectives of Article 151 TFEU and without prejudice to the other provisions of the Treaties, the Commission is tasked to encourage cooperation between the Member States and facilitate coordination of their action in all social policy fields under Title X of the TFEU. Article 153(4) provides that provisions adopted pursuant to Article 153 TFEU must not affect the right of Member States to define the fundamental principles of their social security system and must not significantly affect the financial equilibrium thereof.

##### *c) Existing measures in this field*

In 2002, the European Council set ‘the Barcelona Targets’<sup>113</sup> to ensure the provision of formal childcare to at least 90% of children in the EU between the age of 3 and the mandatory school age, and at least 33% of children under the age of 3 by 2010. These targets were reaffirmed in the European Pact for Gender Equality 2011-2020.

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<sup>113</sup> Presidency conclusions, Barcelona European Council, 15-16 March 2002, SN 100/1/02 REV 1.

The 2009 Strategic Framework for European cooperation in education and training (ET2020) set up a number of objectives in education and training, including a benchmark in Early Childhood Education and Care (ECEC).<sup>114</sup>

Commission Recommendation 2008/867/EC on the active inclusion of people excluded from the labour market<sup>115</sup> refers to the need for access to quality services, including childcare. Council Recommendation of 28 June 2011<sup>116</sup> on policies to reduce early school leaving mentions the provision of high-quality early childhood education and care as a preventive measure to reduce the risk of early school leaving.

Commission Communication<sup>117</sup> and Council conclusions of 2011<sup>118</sup> on Early childhood education and care: providing all our children with the best start for the world of tomorrow both acknowledge that early childhood education and care provides the necessary foundation for lifelong learning, social integration, personal development and future employability.

Commission Recommendation 2013/112/EU on Investing in children: breaking the cycle of disadvantage<sup>119</sup> calls on all Member States to step up their investment in children, according to a three-pillar approach, which includes affordable, quality early childhood education and care services and other measures to address child poverty, as part of an integrated child-rights-based package of policy measures to improve outcomes for children and break intergenerational cycles of disadvantage.

On 16 June 2016, Council Conclusions on "Combating Poverty and Social Exclusion: An Integrated Approach" encouraged the Member States to address child poverty and promote children's well-being through multi-dimensional and integrated strategies, in accordance with the Commission Recommendation on investing in children.

The European Regional Development Fund supports measures to improve the early childhood education and care infrastructure and the European Social Fund supports the promotion of equal access to good quality early-childhood education and access to high-quality and affordable services for children and families. The European Agricultural Fund for Rural Development supports the establishment of basic services in rural areas. The Erasmus+ programme provides the possibility for strategic partnerships and mobility in order to improve practice and supports cooperation to advance early childhood education and care policies.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

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<sup>114</sup> By 2020, at least 95% of children (from 4 to compulsory school age) should participate in early childhood education

<sup>115</sup> Commission Recommendation 2008/867/EC on the active inclusion of people excluded from the labour market, OJ L 307, 18.11.2008, p.11-14.

<sup>116</sup> OJ C 191, 1.7.2011, p.1.

<sup>117</sup> Communication from the Commission, Early Childhood Education and Care: Providing all our children with the best start for the world of tomorrow, COM(2011) 66 final.

<sup>118</sup> OJ C 175, 15.6.2011, p.8.

<sup>119</sup> Commission Recommendation 2013/112/EU Investing in children: breaking the cycle of disadvantage OJ L 59, 2.3.2013, p. 5.

The Pillar establishes that *all children have the right to* good quality early childhood education and care (ECEC). ECEC is understood as any regulated arrangement that provides education and care for children from birth to compulsory primary school age - regardless of the setting, funding, opening hours or programme content - and includes centre and family-based day-care; privately and publicly funded provision; pre-school and pre-primary provision.<sup>120</sup>

The Pillar also highlights the quality aspects of ECEC, understood as combining aspects related to access, workforce, curriculum, monitoring, evaluation and governance. Universally available and good-quality ECEC benefits all children and particularly those from a disadvantaged background.

The provisions of the Pillar set a right for children to be protected from poverty, meaning that every child must have access to comprehensive and integrated measures as set out in the 2013 European Commission Recommendation on investing in children. Prevention of poverty and social exclusion is most effectively achieved through integrated strategies. The measures targeted should, for instance, include access to adequate resources, a combination of cash and in-kind benefits allowing children to enjoy adequate living standards, access to affordable quality services in the area of education, health, housing, family support and promotion of family-based and community care, and legal protection and support for children to participate in decision-making that affects their lives.

Principle 11b gives children from disadvantaged backgrounds (such as Roma children, some children with a migrant background, or ethnic minority children, children with special needs or disabilities, children in alternative care and street children, children of imprisoned parents, and children within households at particular risk of poverty) the right to reinforced and targeted support to ensure they have equitable access to and enjoyment of social rights.

### **3. Implementation**

#### *a) What Member States and Social Partners can do*

Member States are responsible for the content of teaching and for the organisation of their education systems and they are invited to give effect to the Pillar in this context, particularly through (i) enhanced availability and better use of early childhood education and care facilities, and (ii) introducing policies to counter child poverty and measures to promote equal opportunities (for instance national and subnational strategies that include targets, indicators, earmarked budget allocations and a monitoring mechanism). National strategies on child participation could be put in place to promote awareness on how to involve children in all actions and decisions that concern them.

Nationally, social partners can support the implementation of this Pillar by collecting and exchanging good practice across the EU. Thanks to the involvement of the social partners in work-life balance

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<sup>120</sup> Proposal for key principles of a Quality Framework for Early Childhood Education and Care, report of the Working Group on Early Childhood Education and Care under the auspices of the European Commission, [http://ec.europa.eu/dgs/education\\_culture/repository/education/policy/strategic-framework/archive/documents/eccec-quality-framework\\_en.pdf](http://ec.europa.eu/dgs/education_culture/repository/education/policy/strategic-framework/archive/documents/eccec-quality-framework_en.pdf).



issues, and in some countries their responsibility for social security systems, many companies already promote or even provide childcare for their own staff. In this way, the social partners play a key role in highlighting and exchanging good practice.

At EU level, social partners must be consulted in accordance with Article 154 TFEU on possible initiatives based on Article 153 TFEU, and can sign agreements which can be implemented at EU level at their request in accordance with Article 155 TFEU. Social partners can also collect and exchange good practice across the EU. Nationally, social partners can support the implementation of this Principle through involvement in the design and implementation of relevant policies.

*Good practice in the spirit of the Pillar*

As of 2018, **Lithuania** has put in place a universal child benefit system, which replaced previous income tax allowance for parents with children. The new system is more favourable for low-income earners. Under the earlier system the low-income families were not able to fully benefit from the additional tax allowance for children because of their low taxable income (or absence of it). For the higher income earners, the universal child benefit substitutes the previous tax allowance for children.

*b) Recent and ongoing initiatives at EU level*

The Commission presented, together with the European Pillar of Social Rights, an initiative "New start to support work-life balance for parents and carers"<sup>121</sup>. It aims to address women's under-representation in the labour market by making it easier for both men and women to reconcile professional and family responsibilities. The initiative includes a proposal for a Directive on work-life balance for parents and carers, and a Communication with a number of complementary non-legislative measures, such as supporting more and better childcare and long-term care facilities with EU funding, identifying country-specific obstacles resulting from tax-benefit systems, which discourage second earners (predominantly women) from work, better monitoring of the reconciliation policies in the European Semester and improved data collection and comparability.

As contribution to the Leaders' meeting in Gothenburg on 17 November 2017, the Commission presented a Communication "Strengthening European Identity through Education and Culture". A Council Recommendation on a quality framework for Early Childhood Education and Care is planned for 2018, accompanied by a more ambitious common benchmark that would call for offering places for at least 95% of children between 3 years of age and the mandatory school age.

The Commission presented together with the European Pillar of Social Rights a review of the implementation of Commission Recommendation 2008/867/EC on the active inclusion of people excluded from the labour market, and of Commission Recommendation 2013/112/EU: Investing in children: breaking the cycle of disadvantage.

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<sup>121</sup> COM(2017)253

The Commission will further support Member States in providing a common framework for high quality early childhood education and care (ECEC) and step up efforts to help them learn from each other and identify what works best. Under the Open Method of Coordination, the Social Protection Committee organises regularly peer reviews on ECEC and support for disadvantaged children.

In 2018, the Commission will launch and implement a Preparatory Action on a Child Guarantee, following a European Parliament's proposal. The action aims at clarifying the concept of such a guarantee, its feasibility and potential to contribute to the overall objective of fighting child poverty. Initially, it will look in detail at the situation of four well-known vulnerable groups of children, i.e. children in migration, in institutions, in precarious households and disabled children with special needs.

## Principle 12 - Social protection

**Regardless of the type and duration of their employment relationship, workers, and, under comparable conditions, the self-employed, have the right to adequate social protection.**

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### 1. Existing EU law in this field

#### *a) The Charter of Fundamental Rights of the European Union*

Article 34 of the Charter affirms respect for the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by EU law and national laws and practices. It recognises entitlement to social security and social assistance for everyone residing and moving legally within the European Union in accordance with EU law and national laws and practices. It also sets out the right to social assistance and social housing to ensure a decent existence for all those who lack sufficient resources and combat social exclusion and poverty.

Article 35 of the Charter guarantees the right of access to preventive health care and the right to medical treatment under the conditions established by national laws and practices.

#### *b) The legislative powers and their limits*

Article 153(2) of the Treaty on the Functioning of the European Union (TFEU) enables the EU to adopt measures, including directives setting minimum requirements, in the field of social security and social protection of workers.

Article 153(4) states that any acts adopted under Article 153 TFEU must not affect the right of Member States to define the fundamental principles of their social security system and must not significantly affect the financial equilibrium thereof. Directives adopted on the basis of Article 153 TFEU must avoid imposing administrative, financial and legal constraints in a way that would hold back the creation and development of small and medium-sized businesses.

Article 156 TFEU tasks the Commission to encourage cooperation between the Member States and facilitate coordination of their action in all social policy fields under Title X of the TFEU.

Article 48 TFEU requires the EU legislature to adopt such measures on of social security as are necessary to provide freedom of movement for workers and the self-employed between the Member States.

#### *c) Existing measures in this field*

Council Recommendation 92/442/EEC on the convergence of social protection objectives and policies<sup>122</sup> covers social insurance for workers in relation to sickness, maternity, unemployment, incapacity for work, the elderly and the family.

Council Recommendation 92/441/EEC on common criteria concerning sufficient resources and social assistance in social protection systems<sup>123</sup> sets out principles and guidelines to implement this right.

Directive 2010/41/EU of the European Parliament and of the Council on the application of the principle of equal treatment between men and women engaged in self-employed activity<sup>124</sup> grants access to maternity leave and benefits for at least 14 weeks. It does not cover access to any other social insurance risks.

Regulation (EC) No 883/2004 of the European Parliament and of the Council<sup>125</sup> coordinates the social security rules of the Member States as regards people in cross-border situations.

Regulation (EU) No 1231/2010 of the European Parliament and of the Council<sup>126</sup> coordinates social security systems for third-country nationals and their family members legally residing on EU territory who have moved between Member States.

Council Directive 2003/109/EC<sup>127</sup> concerning the status of third-country nationals who are long-term residents, together with a number of other EU directives concerning legal migration of third-country nationals in the EU<sup>128</sup>, confer upon them equal treatment rights with host country's nationals in relation to social protection (for long term residents) and social security.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar transforms the call for a replacement income which will maintain the workers' standard of living in the 1992 Recommendation *into a right*. The provisions on social protection apply to all workers, regardless of the type and duration of their employment relationship, and, under

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<sup>122</sup> Council Recommendation 92/442/EEC of 27 July 1992 on the convergence of social protection objectives and policies OJ L 245, 26.8.1992, p. 49.

<sup>123</sup> Council Recommendation 92/441/EEC of 24 June 1992, OJ L 245, 26.8.1992, p. 46.

<sup>124</sup> Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the Principle of equal treatment between men and women engaged in an activity in a self-employed capacity, OJ L 180, 15.7.2010, p.1.

<sup>125</sup> Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems OJ L 166, 30.4.2004, p.1.

<sup>126</sup> Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality, OJ L 344, 29.12.2010, p. 1.

<sup>127</sup> Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, OJ L 16, 23.1.2004, p. 44. See also, for example, Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, OJ L 343, 23.12.2011, p.1.

<sup>128</sup> Directives on: Family reunification, Blue Card, Single Permit, Researchers, Students, Qualification as a beneficiary of international protection, seasonal workers and intra-corporate transferees.

comparable conditions, the self-employed. Its aim is to cover the whole range of non-standard contracts for the provision of work which are increasingly prevalent in today's labour market.

The Pillar also provides that the *self-employed* shall have access to social protection. By extending access to the self-employed, the principle goes beyond the 1992 Council Recommendation, which only calls for examining the possibility of appropriate social protection for the self-employed.

The right to social protection enshrined in the Pillar covers both social assistance and social security. Social security, which includes both contributory and non-contributory schemes, is defined in Regulation (EC) No 883/2004 of the European Parliament and of the Council<sup>129</sup> to include the following branches: (a) sickness benefits; (b) maternity and equivalent paternity benefits; (c) invalidity benefits; (d) old-age benefits; (e) survivors' benefits; (f) benefits in respect of accidents at work and occupational diseases; (g) death grants; (h) unemployment benefits; (i) pre-retirement benefits; (j) family benefits.

In guaranteeing that self-employed people can also have access to social protection under comparable conditions, the principle goes beyond Directive 2010/41/EU, which dealt only with maternity leave.

Taken together, parts one and two of the Pillar's provision on social protection ensure that comparable access to social protection is made available both to people employed as workers and people working as self-employed.

### **3. Implementation**

#### *a) What Member States and social partners can do*

Member States are invited to adapt their rules in order to give effect to the Pillar provisions on social protection, in addition to transposing and enforcing rules adopted at EU level.

Furthermore, Member States may ratify, if not done so, and apply the relevant ILO conventions on social security, the European Code of Social Security and the Revised European Social Charter, and may review the reservations made for some Articles of the revised European Social Charter.

At EU level, social partners must be consulted in accordance with Article 154 TFEU on possible initiatives based on Article 153 TFEU, and can sign agreements which can be implemented at EU level at their request in accordance with Article 155 TFEU. Social partners can also collect and exchange good practice across the EU. Nationally, social partners can support the implementation of this principle via collective bargaining and through involvement in the design and implementation of relevant policies.

*Good practice in the spirit of the Pillar*

<sup>129</sup> The Regulation applies also to special non-contributory cash benefits which display characteristics of both social security and social assistance.

In May 2017, **Denmark** adopted a reform of the unemployment insurance scheme, which will give better coverage to the self-employed, persons in non-standard jobs, persons with multiple jobs and persons combining employment and self-employment. It will create a more transparent and less discretionary system, using earnings registered for tax purposes. In this new scheme, unemployment is defined in relation to activities rather than to a categorisation as either self-employed or wage earner. Income as both wage earner and self-employed as well as income from multiple income sources will establish eligibility and entitlements. The reform will enter into force on 1 July 2018.

*b) Recent and ongoing initiatives at EU level*

The Commission is presenting a proposal for a recommendation on "Access to Social Protection for workers and the self-employed", as part of the "Social Fairness Package". The proposal for a recommendation aims at supporting all self-employed and non-standard workers who, due to their contract type or employment status, are not sufficiently protected by social security schemes regarding unemployment, sickness and healthcare, maternity or paternity, accident at work and occupational diseases, disability and old age. It addresses gaps in access to social protection faced by people employed on non-standard contracts and in various forms of self-employment, as well as the means to make rights transferable and transparent when changing employer, contract type or transitioning to self-employment.

The Commission is also putting forward a proposal for a European Labour Authority as part of the "Social Fairness Package". The Authority will aim to strengthen fairness and efficiency in the European labour market by facilitating cross-border labour mobility. It will help Member States ensure that workers' and citizens' rights to equal treatment and opportunities regarding employment and social protection are guaranteed in cross-border situations.

The third part of the "Social Fairness Package" is a proposal on a European Social Security Number. This number will provide a unique identifier to mobile persons with a view to ensure a real time verification of their social security status.

## Principle 13 - Unemployment Benefits

**The unemployed have the right to adequate activation support from public employment services to (re)integrate in the labour market and adequate unemployment benefits of reasonable duration, in line with their contributions and national eligibility rules. Such benefits shall not constitute a disincentive for a quick return to employment.**

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### 1. Existing EU law in this field

#### *a) The Charter of Fundamental Rights of the European Union*

Article 29 of the Charter guarantees everyone the right of access to a free placement service. Article 34 of the Charter affirms respect for the entitlement to social security benefits and social services providing protection, among others, in the case of loss of employment, in accordance with the rules laid down by EU law and national laws and practices. It recognises the entitlement to social security and social assistance for everyone residing and moving legally within the European Union in accordance with EU law and national laws and practices.

#### *b) The legislative powers and their limits*

Article 147 of the Treaty on the Functioning of the European Union (TFEU) provides that the European Union must contribute to a high level of employment by encouraging cooperation between Member States and by supporting and, if necessary, complementing their action. According to Article 153(2) TFEU, the EU is empowered to adopt measures *inter alia* in the field of the integration of persons excluded from the labour market. These measures can include directives setting minimum requirements. Article 153(4) provides that provisions adopted pursuant to Article 153 TFEU must not affect the right of Member States to define the fundamental principles of their social security system and must not significantly affect the financial equilibrium thereof. Directives adopted on the basis of Article 153 TFEU must avoid imposing administrative, financial and legal constraints in a way which that hold back the creation and development of small and medium-sized businesses.

#### *c) Existing measures in this field*

Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems provides that an unemployed person who satisfies the conditions for entitlement to unemployment benefits and who goes to another Member State to seek work, has the right to retain the entitlement to unemployment benefits in cash for a period of up to three months. Member States can allow the extension of this period up to six months .

Commission Recommendation of 3 October 2008 on the active inclusion of people excluded from the labour market <sup>130</sup> calls for an integrated comprehensive strategy for the active inclusion of people

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<sup>130</sup> Commission Recommendation of 3 October 2008 on the active inclusion of people excluded from the labour market, OJ L 307, 18.11.2008, p. 11.

excluded from the labour market, combining adequate income support, inclusive labour markets and access to quality services.

The European Network of Public Employment Services (PES) established through the Decision No 573/2014/EU<sup>131</sup> of the European Parliament and Council, provides a platform to compare PES performance at European level, identify good practice and foster mutual learning in order to strengthen the active support services.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar states the right to adequate support for people in unemployment from public employment services. This support is based on assessment, counselling and guidance for job search and more broadly for career decisions.

Furthermore, the Pillar provides that the unemployed must have a right to adequate unemployment cash benefits of reasonable duration. The Pillar requires an adequate level of benefits, as in relation to the income replaced. The replacement level should maintain incentives for a quick return to work. Provision of the benefit should be of reasonable duration: it is important to allow sufficient time to find a job matching the skills of the jobseeker, and to avoid negative incentives discouraging job-seeking. Nevertheless, the benefits should be in line with the contributions and respect national eligibility rules.

The provision covers all unemployed, including those with short employment records and those who were formerly self-employed. Its scope covers both contributory and non-contributory unemployment cash benefits, as well as unemployment assistance.

Commission Recommendation of 3 October 2008 on the active inclusion of people excluded from the labour market already provides guidance on how to continually review the incentives and disincentives to work resulting from tax and benefit systems. The Pillar takes this a step forward by requiring that such incentives be built into the design of unemployment benefit schemes. It also links unemployment benefits to the support of public employment services.

## **3. Implementation**

### *a) What Member States and social partners can do*

Each Member State retains the right to define the fundamental principles of its social security system. To give effect to the Pillar, Member States are invited to update their rules concerning the provision of unemployment cash benefits in addition to transposing and enforcing rules adopted at EU level.

At EU level, social partners must be consulted in accordance with Article 154 TFEU on possible initiatives based on Article 153 TFEU, and can sign agreements which can be implemented at EU level

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<sup>131</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2014.159.01.0032.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.159.01.0032.01.ENG)



at their request in accordance with Article 155 TFEU. Social partners can also collect and exchange good practice across the EU. Nationally, social partners can support the implementation of this principle via collective bargaining and through involvement in the design and implementation of relevant policies.

*Good practice in the spirit of the Pillar*

In **Lithuania** a Law on Unemployment Social Insurance was adopted in June 2017, aimed at expanding the coverage and adequacy of unemployment benefits. The period of payment of unemployment social insurance benefits increased from 6 to 9 months. According to these amendments, a person having a record of unemployment insurance of at least 12 months over the past 30 months before his registration with PES shall be entitled to the benefit. Formula for calculating an unemployment insurance benefit has also changed and the adequacy should improve.

*b) Recent and ongoing initiatives at EU level*

The Commission is presenting a proposal for a recommendation on "Access to Social Protection for workers and the self-employed", as part of the "Social Fairness Package". The proposal for a recommendation aims at supporting all self-employed and non-standard workers who, due to their contract type or employment status, are not sufficiently protected by social security schemes regarding unemployment, sickness and healthcare, maternity or paternity, accidents at work and occupational diseases, disability and old-age. The Commission conducted a two-stage consultation of the social partners, as well as an open public consultation and targeted hearings on the initiative,<sup>132</sup> in order to address gaps in access to social protection faced by people employed on non-standard contracts and in various forms of self-employment. The consultation also addressed the access to unemployment benefits and to employment services.

The Commission will continue to support negotiations on the proposal presented in December 2016 for amending Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 of the European Parliament and of the Council.<sup>133</sup> This proposal extends the minimum period for which an unemployed person can request unemployment benefits while searching for a job in another Member State from three to six months.

The European Network of Employment Services (PES Network) is implementing the Benchlearning project. This aims to improve the public employment services' performance by linking indicator-based benchmarking with mutual learning to better address the active support to job seekers.

The Commission is working, together with Member States, on developing benchmarks for unemployment benefits and active labour market policies.

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<sup>132</sup> C(2017) 2610.

<sup>133</sup> COM(2016) 815 final, 13.12.2006.

## Principle 14 - Minimum income

**Everyone lacking sufficient resources has the right to adequate minimum income benefits ensuring a life in dignity at all stages of life, and effective access to enabling goods and services. For those who can work, minimum income benefits should be combined with incentives to (re)integrate into the labour market.**

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### 1. Existing EU law in this field

#### *a) The Charter of Fundamental Rights of the European Union*

Article 34(3) of the Charter affirms recognition and respect of the right, *among others*, to social assistance to ensure a decent existence for all those who lack sufficient resources in accordance with the rules laid down by EU law and national laws and practices.

#### *b) EU legislative powers and their limits*

Article 153(2) of the Treaty on the Functioning of the European Union (TFEU), empowers the EU to adopt measures to support and complement the activities of Member States in the field of the integration of persons excluded from the labour market. Article 153(4) provides that provisions adopted under Article 153 TFEU must not affect the right of Member States to define the fundamental principles of their social security system and must not significantly affect the financial equilibrium thereof. Article 156 TFEU tasks the Commission to encourage cooperation between the Member States and facilitate coordination of their action in all social policy fields under Title X of the TFEU.

#### *c) Existing measures in this field*

Council Recommendation 92/441/EEC on common criteria concerning sufficient resources and social assistance in social protection systems (commonly known as the "Minimum Income Recommendation")<sup>134</sup> calls on Member States to recognise the right to social assistance and sets out principles and guidelines to implement this right.

Commission Recommendation 2008/867/EC<sup>135</sup> on the active inclusion of persons excluded from the labour market calls on Member States to combine adequate income support with access to quality services and inclusive labour market measures in an integrated active inclusion strategy. This call to the Member States was reiterated in the Council Recommendation of 15 February 2016 on the integration of the long-term unemployed into the labour market.<sup>136</sup>

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<sup>134</sup> Council Recommendation 92/441/EEC of 24 June 1992, OJ L 245, 26.8.1992, p. 46.

<sup>135</sup> Commission Recommendation 2008/867/EC of 3 October 2008 on the active inclusion of people excluded from the labour market, OJ L 307, 18.11.2008, p. 11, endorsed by the Council of the European Union on 17 December 2008.

<sup>136</sup> Council Recommendation of 15 February 2016, OJ C 67, 20.2.2016, p. 1.

## 2. Scope and changes introduced by the European Pillar of Social Rights

The Pillar sets out a right for everyone who lacks sufficient resources to access minimum income benefits. In the case of people who are able to work, benefits should be combined with incentives to (re)integrate into the labour market. The Pillar goes beyond the 1992 Minimum Income Recommendation by explicitly stating the right to a minimum income that ensures a life in dignity. The concept of "minimum income", pointing to a specific form of benefit, is used explicitly for the first time, replacing the more generic terms such as "social assistance" or "sufficient resources".

Minimum income aims to prevent destitution of people who are not eligible for social insurance benefits, or whose entitlement to such benefits has expired, thus combating poverty and social exclusion. Such benefits should also ensure a life in dignity at all stages of life, combined with effective access to enabling services<sup>137</sup>, which allow people to actively participate in the labour market and society. Such benefits are non-contributory, universal and means-tested. They require people to be available for work or participate in community activities, if the individuals are capable.

An important element of ensuring incentives to work is that the design of the benefit should be consistent with other benefits and preserve financial incentives to take up a job. This avoids situations where minimum income beneficiaries are trapped in inactivity. Such incentives can take the form of requiring the person receiving the benefit to use employment services, which together with other enabling services can support labour market reintegration.

## 3. Implementation

### *a) What Member States and Social Partners can do*

Member States are responsible for implementing the guidelines and recommendations on social protection agreed at EU level. To give effect to the Principle, Member States are invited to update and extend their practice concerning the design and payment of minimum income benefits.

At EU level, social partners must be consulted in accordance with Article 154 TFEU on possible initiatives based on Article 153 TFEU, and can sign agreements which can be implemented at EU level at their request in accordance with Article 155 TFEU. Social partners can also collect and exchange good practice across the EU. Nationally, social partners can support the implementation of this principle through involvement in the design and implementation of relevant policies.

*Good practice in the spirit of the Pillar*

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<sup>137</sup> A definition of "enabling services" is mentioned in the Social Investment Package, COM(2013)39: "The term 'enabling services' refers to various services supporting active, social, and economic inclusion policies. Social assistance services, employment and training services, housing support and social housing, childcare, long-term care services and health services are all examples of such provision."

In **Estonia** since January 2018, the subsistence benefit line has increased, having mostly an impact on reducing the poverty of the households with three and more children. Also, the subsistence benefit scheme is changed to motivate the beneficiaries to work. According to the plans of the Government, if a beneficiary of the subsistence benefit goes to work, then for 2 months his/her salary will not be taken into consideration as income, following a 4 months period when 50% of the salary will be taken into account as income when the subsistence benefit is calculated. In addition, it is foreseen not to include the salary earned by school pupils into the income of the family upon calculating the subsistence benefit.

In **Italy** the new scheme (Reddito di inclusione) became operational as from January 2018. The 2018 Budget Law allocates funding to extend the measure to individuals, regardless of family status. Funding was increased from the original EUR 1.7 billion to EUR 2 billion in 2018 (around 0.1 % of GDP) and will progressively increase to EUR 2.7 billion by 2020. The scheme is the result of synergies between national and EU policies and funds. Its design follows a wide consultation and a strong participatory approach, and reinforces activation measures, supported by European Social Fund allocated funds.

*b) Recent and ongoing initiatives at EU level*

The efficient set up of minimum income schemes at national level is explored in the benchmarking exercise in the framework of the Social Protection Committee. The identified indicators are used within the European Semester process of economic policy coordination, to which the Social Protection Committee contributes. The Open Method of Coordination in the Social Protection Committee ensures policy coordination and monitors the progress of the Member States through various exercises such as peer reviews planned for 2018 in the field. EU financial instruments and in particular the European Social Fund play an important role by supporting structural reforms to improve the efficiency of social policies and services.

In order to alleviate the worst forms of poverty in the Union the Fund for European Aid to the Most Deprived provides non-financial assistance to the most deprived persons. In particular through distribution of food or basic consumer goods, and/or provision of social inclusion non-financial measures.

The Commission has been supporting Member States to improve their minimum schemes through the European Minimum Income Network<sup>138</sup>. The work of the Network focused on promoting adequate and accessible minimum income schemes and disseminating a methodology for cross-nationally comparable reference budgets in the Member States.

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<sup>138</sup> <https://emin-eu.net/what-is-emin/>

## Principle 15 - Old-age income and pensions

**a. Workers and the self-employed in retirement have the right to a pension commensurate to their contributions and ensuring an adequate income. Women and men shall have equal opportunities to acquire pension rights.**

**b. Everyone in old age has the right to resources that ensure living in dignity.**

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### 1. Existing EU law in this field

#### *a) The Charter of Fundamental Rights of the European Union*

Article 25 of the Charter affirms recognition and respect for the rights of the elderly to lead a life of dignity and independence. Article 34 of the Charter affirms respect for the entitlement to social security benefits and social services providing protection, *among others*, in cases such as dependency or old age, in accordance with the rules laid down by EU law and national laws and practices and the entitlement to social security benefits and social services in old age. Article 23 guarantees equality between men and women in all areas.

#### *b) EU legislative powers and their limits*

Article 151 of the Treaty on the Functioning of the European Union (TFEU) affirms that, *among others*, one of the objectives of the EU and its Member States is the promotion of proper social protection. Article 153(2) TFEU empowers the EU to adopt measures in the area of social security and social protection of workers. Article 153(4) provides that any acts adopted under Article 153 TFEU must not affect the right of Member States to define the fundamental principles of their social security system and must not significantly affect the financial equilibrium thereof. Article 156 TFEU empowers the Commission to encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields, including in the field of social security.

Article 19 TFEU empowers the EU legislature to take appropriate action to combat discrimination, including discrimination based on gender. Article 157(3) TFEU empowers the EU legislature to adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in employment and occupation.

#### *c) Existing measures in this field*

There are a number of Directives which implement the principle of equal treatment between men and women, *among others*, in relation to pensions, covering statutory schemes, occupational and personal pensions.<sup>139</sup>

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<sup>139</sup> Directive 79/7/EEC on the implementation of the Principle for men and women in matters of social security, OJ L 6, 10.1.1979, p. 24; Directive 2006/54/EC on the implementation of the equal opportunities and equal treatment of men and

Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems<sup>140</sup> provides for the aggregation of periods of insurance and the right for pensioners who worked in another EU Member State to export their pensions.

The EU has also adopted Directives concerning occupational pension schemes, dealing in particular with cross-border situations.<sup>141</sup>

Council Recommendation 92/442/EEC<sup>142</sup> on the convergence of social protection objectives and policies covers social insurance for workers in relation to sickness, maternity, unemployment and incapacity for work; minimum subsistence for the elderly; and social protection of the family.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar calls for an adequate pension for both workers and the self-employed. Thus, the Pillar goes beyond existing EU legislation by covering also the self-employed. It also calls for equal opportunities for both women and men to acquire old-age pension rights. At present, the pensions of women are lower than those of men largely due to the impact on contribution records of lower pay, more part-time working and shorter, more interrupted careers linked to caring obligations. Equal opportunities to build old-age income rights require, in conjunction with labour market and work-life balance measures, equal pensionable ages and adequate crediting of pension rights for care periods. The Pillar goes further than the 1992 Recommendation by calling for equality of opportunity between women and men when it comes to acquiring pension rights.

The Pillar calls for an adequate income at old age without regard to the type of pension system. Thus, it covers all three pillars of the pension system. Funded supplementary pension systems are becoming more important alongside state-based pension systems. Facilitating and encouraging lifelong saving for retirement, including fiscal incentives, is an important flanking measure.

The Pillar provisions apply to income support for older people irrespective of its form. They aim to prevent poverty in old age and maintain retired people's standard of living. The 1992 Recommendation on Convergence of Social Protection Objectives and Policies deals with both poverty protection and income maintenance. However, the principle sets the bar higher by speaking about the *right to* a pension ensuring an adequate income.

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women in employment and occupation OJ L 2004, 26.7.2006, p. 23; Directive 2004/113/EC on the implementation of the Principle of men and women in the access to and supply of goods and services, OJ L 273, 21.12.2004, p.37.

<sup>140</sup> Regulation 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.04.2004, p.1.

<sup>141</sup> Council Directive 98/49/EC of 29 June 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community, OJ L 209, 25.7.1998, p. 46; Directive 2014/50/EU on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights, OJ L 128, 30.4.2014, p.1; Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) OJ L 354, 23.12.2016, p.37.

<sup>142</sup> Council Recommendation 92/442/EEC of 27 July 1992 on the convergence of social protection objectives and policies OJ L 245, 26.8.1992, p. 49.

### 3. Implementation

#### *a) What Member States and Social Partners can do*

Member States retain the right to define the fundamental principles of their social security systems. They are invited to adapt their rules in order to give effect to the principle, in addition to transposing and enforcing rules adopted at EU level.

At EU level, social partners must be consulted in accordance with Article 154 TFEU on possible initiatives based on Article 153 TFEU, and can sign agreements which can be implemented at EU level at their request in accordance with Article 155 TFEU. Social partners can also collect and exchange good practice across the EU. Nationally, social partners can support the implementation of this principle through involvement in the design and implementation of relevant policies.

#### *Good practice in the spirit of the Pillar*

In October 2017 in **Estonia**, a lump sum support of 115 € per year was introduced for pensioners living alone with pension lower than 1.2 times the amount of average old-age pension (less than 470€). The aim of the allowance is to improve financial independence and reduce poverty of pensioners' living alone. The absolute poverty rate of the elderly is rather low, however, the relative poverty rate is high (40.1% in 2014), whereas people who live alone and are over 65 years of age the rate of relative poverty reaches up to 73.8%. As the result of paying pensioner's living alone allowance the relative poverty rate of pensioners who live alone would decrease 5.5 percentage points.

#### *b) Recent and ongoing initiatives at EU level*

The Commission is presenting a proposal for a recommendation on "Access to Social Protection for workers and the self-employed", as part of the "Social Fairness Package". The proposal for a recommendation aims to support all self-employed and non-standard workers who, due to their contract type or employment status, are not sufficiently protected by social security schemes regarding unemployment, sickness and healthcare, maternity or paternity, accidents at work and occupational diseases, disability and old age. The initiative addresses gaps in access to social protection faced by people employed on non-standard contracts and in various forms of self-employment as well as occupational rights and ways to make pension rights transferable and transparent when changing employer, contract type or moving to self-employment.

While public pension schemes are the backbone of old age income support supplementary pension schemes can also contribute to a more adequate income protection. In its action plan on Capital Markets Union of 30 September 2015, the Commission committed to analyse ways to increase choices for retirement saving and build an EU market for personal pensions. The Commission made a

proposal<sup>143</sup> to create a pan-European personal pensions product alongside domestic personal pension schemes.

The adequacy of pension systems at national level is also being explored in the benchmarking exercise in the framework of the Social Protection Committee.

The Commission has decided to set up a high level group on pensions to provide policy advice on matters related to ways of improving the provision, safety through prudential rules, intergenerational balance, adequacy and sustainability of supplementary pensions (occupational and personal). The high level group is expected to present an independent report in 2019.

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<sup>143</sup> COM/2017/0343 final



## Principle 16 - Health care

**Everyone has the right to timely access to affordable, preventive and curative health care of good quality.**

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### 1. Existing EU law in this field

#### *a) The Charter of Fundamental Rights of the European Union*

Article 35 of the Charter recognises that everyone has the right of access to medical treatment and preventive health care under the conditions established by national laws and practices.

#### *b) EU legislative powers and their limits*

Article 153(2) of the Treaty on the Functioning of the European Union (TFEU) empowers the EU to adopt measures to support and complement the activities of the Member States in the area of social security and social protection of workers.

Pursuant to Article 153(4) acts adopted under Article 153 TFEU shall not affect the right of Member States to define the fundamental principles of their social security system and shall not significantly affect the financial equilibrium thereof.

Under Article 168(2) TFEU the EU is to encourage cooperation between the Member States in the area of human health and, if necessary, lend support to their action. The Commission may, in close contact with the Member States, take any useful initiative to promote coordination between the Member States in this area, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. Articles 168(1) and (7) TFEU provide that EU action must complement national policies and respect the responsibilities of the Member States and must be directed towards improving public health, preventing physical and mental illness and diseases, and obviating sources of danger to physical and mental health.

Article 48 TFEU requires the EU legislature to adopt such measures in the field of social security as are necessary to provide freedom of movement for workers between Member States.

#### *c) Existing measures in this field*

The EU legislation on pharmaceutical products<sup>144</sup> and on substances of human origin<sup>145</sup> set common standards for accessibility, quality and safety of these products across the EU internal market.

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<sup>144</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use; Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency (Consolidated version: 05/06/2013).

Council Recommendation 92/442/EEC<sup>146</sup> calls on Member States to ensure, among other things, access to necessary healthcare and to facilities seeking to prevent illness for all persons who are legally resident within their territory. Each Member State is to determine the conditions under which access is ensured.

Council Recommendation 9 June 2009<sup>147</sup> calls on Member States to cooperate on patient safety and the related standards, including the prevention and control of healthcare associated infections.

Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security schemes<sup>148</sup> covers, *among other things*, access to healthcare for mobile citizens. Furthermore, Directive 2011/24/EU of the European Parliament and of the Council<sup>149</sup> lays down rules intended to facilitate the receipt of cross-border health care within the EU.

European Structural and Investment Funds, including the European Regional Development Fund and the European Social Fund, have supported the provision of access to health and social care services, with a focus on community-based services<sup>150</sup>.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar sets out a general right of access to good quality preventive health care and medical treatment. It goes beyond Article 35 of the Charter in that it calls for timely access to healthcare and stipulates that it should be affordable and of good quality.

Timely access means that everyone is able to access healthcare whenever they need it. Implementing the principle requires a balanced geographical location of health care facilities and health professionals, as well as policies to minimise long waiting periods.

Affordable health care means that people should not be prevented from using needed care because of the cost.

The provision of the Pillar on healthcare includes the right to healthcare of good quality, meaning that healthcare should be timely, relevant, appropriate, safe and effective.

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<sup>145</sup> [https://ec.europa.eu/health/blood\\_tissues\\_organ/policy\\_en](https://ec.europa.eu/health/blood_tissues_organ/policy_en)

<sup>146</sup> Council Recommendation 92/442/EEC of 27 July 1992 on the convergence of social protection objectives and policies, OJ L 245, 26.08.1992, p. 49.

<sup>147</sup> Council Recommendation of 9 June 2009 on patient safety, including the prevention and control of healthcare associated infections OJ C 151 03.07.2009.

<sup>148</sup> Regulation 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.04.2004, p.1.

<sup>149</sup> Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare, OJ L 88, 4.4.2011, P. 45 – 65.

<sup>150</sup> Regulation 1303/2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund

Finally, preventive and curative healthcare means access to medical treatment and public health services, including health promotion and disease prevention.

### 3. Implementation

#### *a) What Member States and Social Partners can do*

Member States are responsible for the definition of their health policy and for the organisation and delivery of health services and medical care, and retain the right to define the fundamental principles of their social security systems. They are invited to adapt their rules to give effect to the principle, in addition to transposing and enforcing rules adopted at EU level.

At EU level, social partners must be consulted in accordance with Article 154 TFEU on possible initiatives based on Article 153 TFEU, and can sign agreements which can be implemented at EU level at their request in accordance with Article 155 TFEU. Social partners can also collect and exchange good practice across the EU. Nationally, social partners can support the implementation of this principle through involvement in the design and implementation of relevant policies.

#### *Good practice in the spirit of the Pillar*

The good performance of the healthcare system in **France** is confirmed by one of the lowest rates of unmet medical care needs in the EU and by the limited out of pocket expenditure. The new dedicated plan for access to care in the regions presented in October 2017 is aimed at progressively reducing persisting geographical disparities, inter alia by promoting the recruitment of health workers in underserved regions, the creation of multidisciplinary medical homes and telemedicine.

#### *b) Recent and ongoing initiatives at EU level*

Directive 2011/24/EU establishes cooperation between the Member States' health systems for addressing common challenges such as access to healthcare, in particular through the recently launched European Reference Networks; the cooperation on Health Technology Assessment; and the cooperation in the eHealth Network and within the Digital Single Market. On 31 January the Commission adopted a proposal for a Regulation to strengthen EU cooperation on health technology assessment<sup>151</sup>.

In 2018, the European Commission will launch a Joint Action on vaccination to support national vaccination efforts with the aim of increasing coverage.

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<sup>151</sup> COM(2018)51 final

## Principle 17 - Inclusion of people with disabilities

**People with disabilities have the right to income support that ensures living in dignity, services that enable them to participate in the labour market and in society, and a work environment adapted to their needs.**

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### 1. Existing EU law in this field

#### *a) The Charter of Fundamental Rights of the European Union*

Article 21 of the Charter prohibits any discrimination *including* on grounds of disability. Article 26 of the Charter recognises the right of people with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community. Article 34 of the Charter recognises the entitlement to social security benefits and services in cases such as dependency or loss of employment.

#### *b) EU legislative powers and their limits*

Article 19 of the Treaty on the Functioning of the European Union (TFEU) empowers the EU to take appropriate action to combat discrimination, including discrimination based on disability.

Article 153 TFEU empowers the EU to adopt measures, including directives setting minimum requirements, to support and complement the activities of the Member States in the fields of – *among others* - the improvement of the working environment to protect workers' health and safety; working conditions; social security and social protection of workers; and the integration of persons excluded from the labour market. Based on Article 153 TFEU, the EU is also empowered to support and complement the activities of the Member States in the field of combating social exclusion.

#### *c) Existing measures in this field*

The EU is a party to the UN Convention on the Rights of Persons with Disabilities (UNCRPD),<sup>152</sup> an international legally binding instrument setting minimum standards for the rights of people with disabilities. 27 EU Member States<sup>153</sup> are also parties to the Convention. The UNCRPD requires its parties to adopt all appropriate measures for the implementation of the rights recognised in the Convention. These include the right of people with disabilities to work on an equal basis with others, to an adequate standard of living and social protection, to live independently and to be included in the community.

Council Directive 2000/78/EC<sup>154</sup> (the Employment Equality Directive) prohibits discrimination on the grounds of disability, among others, as regards access to employment, self-employment, occupation

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<sup>152</sup> Council Decision of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities, OJ L 23, 27.1.2010, p. 35.

<sup>153</sup> Except Ireland which is finalising the ratification process.

<sup>154</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ L 303, 2.12.2000, p. 16.

and vocational training. It requires employers to provide reasonable accommodation, which means to take appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer.

The core elements of the UNCRPD are reflected in the European Disability Strategy 2010-2020,<sup>155</sup> through which the Commission promotes the participation of people with disabilities in society and in the labour market, decent living conditions and social inclusion. Moreover, provisions related to people with disabilities are included in EU sectoral legislation such as on transport, telecommunication, consumer protection, state aid, public procurement or health and safety.

The Commission encourages Member States to ensure that people with special needs receive support within the general education system. It does so mostly through the European Agency for Special Needs and Inclusive Education, established in 1996. The Agency supports reforms at national level through long-term cooperation, expertise and knowledge exchange, working directly with ministries of education on a voluntary basis. The Agency's reviews help Member States meeting the international standards set in the UN Convention on the Rights of Persons with Disabilities, in particular article 24. Through European Structural and Investment Funds and Erasmus+ funding, the Commission also supports concrete projects promoting inclusive education and mobility of students with disabilities.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar reflects the comprehensive human rights-based approach to disability enshrined in the UNCRPD, based on respect for *dignity*, individual autonomy and independence of persons with disabilities, their full and effective *participation* and inclusion in society on equal basis with others, and equality of opportunity.

The Pillar highlights the right to *income support* as one of the elements of social protection, to *services* that enable people with disabilities to participate in the labour market and in society, and to *an adapted work environment* as key measures for people with disabilities to access other rights set out in the principles of the Pillar, and to enjoy full equality and inclusion at work and in society. By specifying the necessary, mutually reinforcing combination of these measures, the principle goes beyond the existing EU legislation.

## **3. Implementation**

### *a) What Member States and Social Partners can do*

Member States are responsible for the transposition and enforcement of rules adopted at EU level. Those Member States which have ratified the UNCRPD are responsible for its full implementation in matters falling under their competence. The EU measures referred to above contain minimum

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<sup>155</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, COM/2010/0636 final.

standards and Member States are invited to go beyond these rules in order to give effect to the principle, including taking positive action to ensure inclusion of people with disabilities on an equal basis with others. In doing so, Member States should closely consult with and actively involve persons with disabilities.

At EU level, social partners must be consulted in accordance with Article 154 TFEU on possible initiatives based on Article 153 TFEU, and can sign agreements which can be implemented at EU level at their request in accordance with Article 155 TFEU. Social partners can also collect and exchange good practice across the EU. Nationally, social partners can support the implementation of this principle through involvement in the design and implementation of relevant policies.

*Good practice in the spirit of the Pillar*

In **Slovakia**, the European Social Fundis funding support and placement measures for young people not in employment, education or training up to 29 years of age, who are either disabled or grew up in the foster care. Several of most promising practices in **Sweden** are practices that built on the method Supported employment. In these practices a person with disabilities are given individual support by an employment specialist when entering the labour market and in maintaining a job. There are several good examples which have started as projects, often funded by the European Social Fund.

In **Bulgaria**, an action plan for the implementation of the National Long-Term Care Strategy (2018-2021) adopted in January 2018, envisages integrated measures for provision of quality services for long-term care of vulnerable people and new infrastructure. Support measures in the community, development of social enterprises and improved legal framework will enhance social inclusion opportunities and improve the quality of life of people with disabilities and older people.

*b) Recent and ongoing initiatives at EU level*

The Commission continues to support negotiations for the adoption of the proposed European Accessibility Act. The Act aims to ensure accessibility of certain products and services in the internal market, thus facilitating people with disabilities' employment and participation in society on an equal basis with others.

The Commission, as the focal point for the implementation of the UNCRPD at EU level, will continue to mainstream matters relating to disability in all relevant EU policies and legislation, including in all relevant areas of the European Pillar of Social Rights.

The Commission will also continue to support negotiations for the adoption by the EU legislature of its proposal for a Council Directive to expand protection against discrimination, including discrimination based on disability<sup>156</sup> to social protection, including social security and healthcare; education; social advantages; and access to goods and services which are available to the public, including housing.

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<sup>156</sup> Proposal for a Council Directive on implementing the Principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation {SEC (2008) 2180} {SEC (2008) 2181}.

## Principle 18 - Long-term care

**Everyone has the right to affordable long-term care services of good quality, in particular home-care and community-based services.**

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### 1. Existing EU law in this field

#### *a) The Charter of Fundamental Rights of the European Union*

Article 25 of the Charter recognises and respects the rights of the elderly to a life of dignity and independence and to participate in social and cultural life. Article 26 of the Charter recognises and respects the right of people with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community. Article 34 confirms the need for respect for the entitlement to social security benefits and social services providing protection, *inter alia* in cases such as illness, dependency or old age, in accordance with the rules laid down by EU law and national laws and practices.

#### *b) EU legislative powers and their limits*

Article 153(2) of the Treaty on the Functioning of the European Union (TFEU) empowers the EU to adopt measures which support and complement the activities of the Member States in the fields of social security and social protection of workers, combatting social exclusion and modernisation of social protection systems.

Article 153(4) provides that any acts adopted under Article 153 TFEU must not affect the right of Member States to define the fundamental principles of their social security system and must not significantly affect the financial equilibrium of these systems.

#### *c) Existing measures in this field*

Council Recommendation 92/442/EEC on the convergence of social protection objectives and policies<sup>157</sup> calls on Member States to take appropriate social security measures with regard to the specific needs of the elderly where they are dependent on outside care and services. Commission Recommendation 2008/867/EC on the active inclusion of people excluded from the labour market<sup>158</sup> recommends that Member States should provide services that are essential to supporting active and economic inclusion policies, including long-term care services.

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<sup>157</sup> Council Recommendation 92/442/EEC of 27 July 1992 on the convergence of social protection objectives and policies OJ L 245, 26.8.1992, p. 49.

<sup>158</sup> The Commission Recommendation (2008/867/EC) on the active inclusion of people excluded from the labour market, OJ L 307, 18.11.2008, p.11-14.

Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security schemes<sup>159</sup> covers, *among others*, access to long-term care benefits for mobile citizens.

The European Structural and Investment Funds provide funds to Member States for co-financing investments in social services and health care, which reinforce the shift from a hospital- and institution-centred model to community-based care and integrated services. The funds also support the development of long-term care services through the training of formal carers. The European Social Fund may be used to improve access to affordable, sustainable and high-quality health care, employment and training services, services for the homeless, out of school care, childcare and long-term care services<sup>160</sup>. The European Agricultural Fund for Rural Development supports the local initiatives in rural areas including the establishment of basic services.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar affirms for the first time at EU level the right to long-term care services for persons who are reliant on care. It calls for high-quality services to help frail or dependent people maintain their health and functional status for as long as possible and improve their autonomy. Furthermore, the Pillar requires care services to be affordable since formal care services can have significant financial costs, leaving many persons who are reliant on care with unmet needs. While the Charter of Fundamental Rights sets out that older people should have the right to live with dignity and independence, the affordability, adequacy and quality of the services provided are central to the practical application of this right.

The Pillar privileges home-care (provided at the home of a person in need of care) and community-based services (range of care services of a non-institutional character) and therefore goes a step further than the Commission 2008 Recommendation on active inclusion. Developing community-based services helps persons with long-term care needs and with disabilities to live independently and to be included in the community.<sup>161</sup> This generally respects the preferences of persons in need of care to maintain independent living for as long as possible.

## **3. Implementation**

### *a) What Member States and Social Partners can do*

Member States retain the right to define the fundamental principles of their social security systems. They are invited to adapt their rules in order to give effect to the principle, in addition to transposing and enforcing rules adopted at EU level.

At EU level, social partners must be consulted in accordance with Article 154 TFEU on possible initiatives based on Article 153 TFEU, and can sign agreements which can be implemented at EU level

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<sup>159</sup> Regulation 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.04.2004, p. 1.

<sup>160</sup> Regulation 1304/2013 on the European Social Fund (ESF).

<sup>161</sup> In line with the UN Convention on the Rights of Persons with Disabilities.



at their request in accordance with Article 155 TFEU. Social partners can also collect and exchange good practices across the EU. Nationally, social partners can support the implementation of this principle through involvement in the design and implementation of relevant policies.

*Good practice in the spirit of the Pillar*

**Germany** has recently reformed its long-term care system by implementing three so-called ‘Long-term Care Strengthening Acts’. The most significant amendment was the introduction of a new definition of long-term-care needs (in force from 1 January 2017). The newly designed assessment instrument now takes into account the need of people with dementia and hence improves access to long-term care insurance benefits for this group of beneficiaries. The new legal regulations also increased the level of all existing benefits significantly, in particular those related to home care. New services for support, in particular the funding of day-care, and assistance to everyday life were introduced. Care homes were provided with additional support staff and the coordination of care was improved, in particular by strengthening the role of local municipalities.

In 2017, a long-term care leave was introduced in the **Czech Republic** – after acute hospitalization, which results in the need of long-term care, a family member who is an employee may ask their employer for up to 90 days of leave. During the leave, the person is entitled to a benefit in the amount of 60 % of their monthly wage, which is paid from the health insurance scheme.

*b) Recent and ongoing initiatives at EU level*

Together with the European Pillar of Social Rights, the Commission presented the "New start to support work-life balance for parents and carers"<sup>162</sup> initiative. It includes a proposal for a Directive on work-life balance for parents and carers, and a Communication with a number of complementary non-legislative measures, such as providing EU funding to support more and better long-term care facilities.

The Commission continues to support negotiations on the proposal presented in December 2016 for amending Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004.<sup>163</sup> The proposal aims to establish a coherent regime for the coordination of long-term care benefits in cross-border situations.

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<sup>162</sup> COM(2017)253

<sup>163</sup> COM(2016) 815 final, 13.12.2006.

## **Principle 19 - Housing and assistance for the homeless**

**a. Access to social housing or housing assistance of good quality shall be provided for those in need.**

**b. Vulnerable people have the right to appropriate assistance and protection against forced eviction.**

**c. Adequate shelter and services shall be provided to the homeless in order to promote their social inclusion.**

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### **1. Existing EU law in this field**

#### *a) The Charter of Fundamental Rights of the European Union*

Article 34(3) of the Charter affirms recognition and respect of the right, *among others*, to housing assistance to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by EU law and national laws and practices.

#### *b) EU legislative powers and their limits*

Article 153 (2) of the Treaty on the Functioning of the European Union (TFEU) empowers the EU to adopt measures to support and complement the activities of its Member States in the fields of social security and social protection of workers, combating social exclusion and the modernisation of social protection systems. Article 156 TFEU tasks the Commission encourage cooperation between the Member States and facilitate coordination of their action in all social policy fields in Title X of the TFEU.

Article 153(4) provides that any acts adopted under Article 153 TFEU must not affect the right of Member States to define the fundamental principles of their social security system and must not significantly affect the financial equilibrium of these systems.

#### *c) Existing measures in this field*

Commission Recommendation 2008/867/EC on the active inclusion of people excluded from the labour market<sup>164</sup> lays down that Member States should provide services that are essential for supporting social inclusion policies, such as housing support and social housing. Commission Recommendation 2013/112/EU on investing in children: breaking the cycle of disadvantage<sup>165</sup> addresses the housing and living conditions of poor children. The EU Framework for National Roma Integration Strategies<sup>166</sup> recognises housing as a key area of intervention for the inclusion of

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<sup>164</sup> OJ L307, 18.11.2008, p.11.

<sup>165</sup> Commission Recommendation 2013/112/EU of 20 February 2013 Investing in children: breaking the cycle of disadvantage OJ L 59, 2.3.2013, p. 5–16

<sup>166</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, An EU Framework for National Roma Integration Strategies up to 2020 , COM/2011/0173 final.

disadvantaged Roma people. The UN Convention on the Rights of Persons with Disabilities recognises the right to an adequate standard of living for people with disabilities and their families, including adequate housing, and to access to public housing programmes. The Convention also calls for its parties to take appropriate measures to ensure accessibility of housing.

As regards access to shelter, EU legislation lays down specific protection for particularly vulnerable people such as unaccompanied children, asylum-seekers and refugees. Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime<sup>167</sup> provides for the provision of shelter or any other appropriate interim accommodation.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar covers the different aspects of the right to housing in a comprehensive manner for the first time at EU level.

While the Charter of Fundamental Rights provides the right to housing assistance and to a decent existence for all those who lack sufficient resources, principle 19a goes further by referring to the provision of housing support in-kind, namely social housing. Either social housing or housing assistance should be provided: the material scope of the principle includes the whole range of possibilities in providing support in relation to housing, and covers, for example, housing benefit, income support, rental guarantees and tax deductions.

The personal scope of this principle is also wider than under the Charter as it includes housing assistance for *everyone in need*, not only for those who lack sufficient financial resources but equally those with special needs – due to their disabilities, family breakdown, etc.

As regards assisting vulnerable people in the case of eviction, the Pillar represents a significant reinforcement of the right to housing and housing security in particular. Vulnerable people can include both at-risk tenants and dispossessed owners at risk of eviction. The Principle requires the provision of assistance and protection, such as affordable legal representation, advocacy and mediation; or protective measures, such as access to debt management schemes, to mitigate the risk of homelessness. At the same time, the principle applies with due regard of the interests of landlords and in justified, lawful cases.

Moreover, the Pillar establishes universal access to adequate shelters for everyone in a homeless situation. Adequate housing can be understood in terms of security of tenure, affordability, habitability, accessibility, location and cultural adequacy. The Pillar also sets the bar higher by promoting the reintegration of homeless people into society, by means of enabling social services.

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<sup>167</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ L 315, 14.11.2012, p. 57.

### 3. Implementation

#### *a) What Member States can do*

Member States are invited to adopt measures, in particular, national, regional or local housing, cash and in-kind, to support universal and rapid access to shelter for people in all kinds of emergency situations as well as to enhance the coverage and the capacity of enabling social services in order to give effect to the principle.

#### *Good practice in the spirit of the Pillar*

In **Ireland**, a recent strategy “Rebuilding Ireland - an Action Plan for Housing and Homelessness”<sup>168</sup> was launched in July 2016 and raised high hopes in terms of support for accelerating housing supply. The plan includes 5 pillars of action aimed at fixing a broken housing system through measures to boost private housing construction, increase the delivery of social housing improve the private rental market, utilise existing vacant units and address the growing problem of homelessness.

In **Poland**, a new “Housing for Young People” programme (“Mieszkanie dla mlodych”) is being implemented over the period 2014-2018. Beneficiaries can receive State co-financing for purchasing a flat below a certain size and price defined on the basis of the local average property values. Through this scheme young people and young married couples can access better mortgage conditions from banks to buy their first home. The total budget of this program is PLN 3553 million (approximately EUR 853 million)<sup>169</sup>.

**Austria** pursues a supply-orientated housing strategy with focus on rental tenure. Several incentives aim at increasing production of new affordable housing units: (i) mobilising of land and introducing planning obligations or land use regulation (e.g. "urban development agreements"); (ii) reducing production costs by adapting standards within the subsidized sector (which usually are more ambitious than those set in the building acts); (iii) introducing special offers of affordable housing; e.g. housing with reduced amenities (without underground parking lots, elevators or balconies) or housing with reduced floor space but optimized floor plans.

#### *b) Recent and ongoing initiatives at EU level*

The reform of social housing, the accessibility and affordability of housing, as well as the effectiveness of housing allowances are monitored and assessed within the European Semester process. The Open Method of Coordination in the Social Protection Committee ensures policy coordination and monitors the progress of the Member States.

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<sup>168</sup> See: <http://rebuildingireland.ie/>

<sup>169</sup> Auditing Union of Housing Co-operatives (ZRSM RP). See: <http://zrsmrp.com.pl/i1.html>

The implementation of the Principle will be supported by EU Funds, including the European Fund for Strategic Investments for social housing investments, the European Regional Development Fund for housing and social infrastructure, the European Social Fund for social services and the Fund for European Aid for the Most Deprived for food assistance to homeless persons. Under the Progress axis of the EU Programme for Employment and Social Innovation the European Union also supports financially a number of civil society organisations active in the promotion of social inclusion and poverty reduction, including organisations working on homelessness.

The Urban Agenda for the EU is a recent EU initiative<sup>170</sup> representing a new multi-level working method which promotes cooperation between Member States, cities, the European Commission and other stakeholders in order to stimulate growth, liveability and innovation in the cities of Europe and to identify and successfully tackle social challenges. Twelve Partnerships have been created up to date. The Housing Partnerships' objectives are to foster affordable housing of good quality. The focus of the partnership is on public affordable housing, state aid rules and general housing policy. The Urban Poverty Partnership aims to contribute to the reduction of poverty and to improve the inclusion of people in, or at risk of, poverty in particular in deprived neighbourhoods. The Jobs and Skills in the local economy Partnership aims to facilitate the local economy, by increasing capacity and skills of the workforce, providing favourable preconditions for business development and creation of jobs, based on distinctive local specificities.

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<sup>170</sup> See: <https://ec.europa.eu/futurium/en/urban-agenda-eu/what-urban-agenda-eu>

## Principle 20 - Access to essential services

**Everyone has the right to access essential services of good quality, including water, sanitation, energy, transport, financial services and digital communications. Support for access to such services shall be available for those in need.**

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### 1. Existing EU law in this field

#### *a) The Charter of Fundamental Rights of the European Union*

Article 36 of the Charter provides that the EU recognises and respects access to services of general economic interest as provided for in national law and practices, in accordance with the Treaty on the Functioning of the European Union, in order to promote the social and territorial cohesion of the EU.

#### *b) EU legislative powers and their limits*

In accordance with Article 151 of the Treaty on the Functioning of the European Union (TFEU), one of the key objectives of the EU and its Member States is to ensure proper social protection and to fight exclusion. Article 14 TFEU provides that the EU and its Member States, each within their respective powers and within the scope of application of the Treaty, shall ensure that services of general economic interest fulfil their mission. Protocol 26 recognises the essential role and wide discretion of national, regional and local authorities in providing, commissioning and organising these services and their diversity within the EU. This Protocol also highlights that values of quality, safety and affordability, equal treatment, universal access and users' rights are shared values of the EU in respect of services of general economic interest. Declaration 22 annexed to the Treaty of Amsterdam states that in drawing up measures under Article 114 TFEU, the institutions of the EU are to take into account the needs of people with disabilities. Article 106 TFEU lays down that undertakings entrusted with the operation of services of general economic interest are subject to the rules contained in the Treaty, in particular the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them.

#### *c) Existing measures in this field*

In its Quality Framework,<sup>171</sup> the Commission has already generally recognised the importance of services of general economic interest as a cornerstone of the European social model and its commitment to ensure access for all citizens to essential services. In view of clarifying the legal setting for the provision of such services, both state aid and public procurement (concession) legislation has been simplified and clarified for the benefits of public authorities and end-users. The

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<sup>171</sup> A Quality Framework for Services of General Interest in Europe COM(2011) 900 final.

new sets of rules have provided more legal certainty and simplification to public authorities and undertakings.<sup>172</sup>

The sectorial legislation adopted at EU level has always carefully taken account of the need to increase competition and the use of market mechanisms as well as the need to guarantee that every citizen continues to have access to essential services of high quality at prices that they can afford. This has been the case, for instance, in the network industries from telecommunications to transport. In the *electronic communications* field for example, Directive 2002/22/EC of the European Parliament and of the Council<sup>173</sup> (Universal Service Directive) ensures that the liberalisation of services and increased competition is accompanied by a regulatory framework which secures the delivery of a defined minimum set of services to all end-users at an affordable price.

In the field of *rail transport* Regulation (EU) 2016/2338 of the European Parliament and of the Council on the opening of the market for domestic passenger transport services by rail<sup>174</sup>, sets clear rules on the ways in which national competent authorities can award public service contracts that guarantee provision of services of general interest which are more frequent, safer, of a higher quality or provided at lower cost than those that market forces alone would have allowed.

More generally it should also be noted that the EU is the only area in the world where citizens are protected by a full set of *passenger rights* – whether they travel by air, rail, ship, bus and coach. When mobility increased strongly over the last decades, European legislation has been introduced for all modes of transport to define the rights of passengers and to ensure that they can effectively exercise these rights<sup>175</sup>.

In the *energy* sector, a universal service obligation is included in, Directive 2009/72/EC of the European Parliament and of the Council<sup>176</sup> (the Electricity Directive) which clearly states that the citizens of the EU and, where Member States deem it appropriate, small enterprises, should be able to enjoy public service obligations, in particular with regard to security of supply, and transparent, non-discriminatory and reasonable prices.

European Union *water* policy is based on the principle that affordability of water services is critical. National authorities are competent for adopting/implementing concrete support measures

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<sup>172</sup> [http://ec.europa.eu/services\\_general\\_interest/index\\_en.htm](http://ec.europa.eu/services_general_interest/index_en.htm)

<sup>173</sup> Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive), OJ L 108, 24.4.2002, p. 51.

<sup>174</sup> Regulation (EU) 2016/2338 of the European Parliament and of the Council of 14 December 2016 amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail, OJ L 354, 23.12.2016, p. 22.

<sup>175</sup> Key legislation includes Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, Regulation (EC) No 1371/2007 of the European Parliament and of the Council on rail passengers' rights and obligations, and Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents.

<sup>176</sup> Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, OJ L 211, 14.8.2009, p. 55.

safeguarding disadvantaged people and tackling water-poverty issues (through, for example, measures that provide support for low-income households or through the establishment of public service obligations).<sup>177</sup>

In the *financial* sector, Directive 2014/92 of the European Parliament and of the Council<sup>178</sup> allows consumers in Europe to open a payment account with any payment service provider in the EU, regardless of their Member State of residence. Moreover, consumers are entitled to access to a payment account with basic features (which include withdrawals, bank transfers and a debit card) regardless of their Member State of residence or their personal financial situation.

## **2. Scope and changes introduced by the European Pillar of Social Rights**

The Pillar sets out the right to essential services and lists non-exhaustively some of those services which are of the utmost importance in our daily lives. Member States retain competence in defining, organising, delivering and financing such services at national, regional or local level. However, the fact that essential services – including those provided across borders - should be available to all reiterates the importance that the EU attributes to services which are at the core of our social model. In particular, the right to water and sanitation is especially important to EU citizens, who presented a citizens' initiative in this domain only recently.

Some of these services are covered by universal service obligations by sectorial EU legislation to ensure that services of general economic interest are made available to all consumers and users in a Member State and across Member States, regardless of their geographical location, to a specified quality and, taking account of specific national circumstances, at an affordable price. The Pillar recognises the need to support the access to essential services for those in need. The accessibility of essential services in addition to availability and affordability, are essential to ensure equal access to all, and essential for persons with disabilities and older people.

## **3. Implementation**

### *a) What Member States and Social Partners can do*

Member States retain competence in defining, organising, delivering and financing essential services at national, regional or local level. Given that the EU measures embrace the principle that essential services should be available to all, as the core of the European social model, Member States are invited to go beyond these rules in order to give effect to the principle.

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<sup>177</sup> The Drinking Water Directive (Directive 98/83/EC) concerns the quality of water intended for human consumption. Its objective is to protect human health from adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean.

<sup>178</sup> Directive 2014/92 of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features, OJ L 257 of 28.8.2014, p. 214.



Social partners can collect and exchange good practice across the EU. Nationally, social partners can support the implementation of this principle through involvement in the design and implementation of relevant policies.

*Good practice in the spirit of the Pillar*

**Slovakia** has recently started to implement projects to improve access to water and sanitation for marginalized Roma communities. This includes the construction of wells and surface water treatment plants, as well as collection sites and removal of illegal dumps.

*b) Recent and ongoing initiatives at EU level*

In the field of *electronic communications* the proposed revision of the Electronic Communications Regulatory Framework<sup>179</sup> would require Member States to ensure affordable access to all end-users to functional internet access and voice communications services. Where Member States find a lack of affordability, they may require undertakings to provide affordable tariff options and a 'right to contract' for end-users with low income or special social needs. The proposed Code also includes a provision requiring Member States to ensure, in the light of national conditions, that appropriate measures are taken for end-users with disabilities, with a view to ensuring the affordability of their terminal equipment, specific equipment and specific services enhancing equivalent access.

All EU citizens should be able to benefit from high-speed broadband connections. This is not the case today, especially in rural areas, which are less attractive to investors. Only 40% of rural households have next generation access compared to 76% of total EU households. To overcome this rural-urban digital gap, the Commission recently launched a toolkit for rural broadband<sup>180</sup>, a coordinated set of actions with concrete deadlines to ensure that the specific difficulties in rolling out broadband in rural areas across the EU are addressed.

The Clean Energy Package, adopted on 30 November 2016<sup>181</sup>, also included proposals on a new *electricity* market design. The proposal on a recast of the Electricity Directive (Directive 2009/72/EC of the European Parliament and of the Council) did not amend the provisions related to the public service obligations in the electricity sector, but strengthened provisions related to consumer empowerment and protection. It spelled out in more detail the rights of consumers as regards contracts, the possibilities for energy communities and active consumers, and the entitlement to smart meters. The proposal also provides for more detailed provisions on the protection of vulnerable consumers and the obligation of Member States to define criteria for measuring energy

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<sup>179</sup> Proposal for a Directive of the European Parliament and of the Council establishing the European Electronic Communications Code (Recast) (COM(2016)590).

<sup>180</sup> <https://ec.europa.eu/digital-single-market/en/news/european-commission-joins-forces-help-bringing-more-broadband-rural-areas>

<sup>181</sup> [http://eur-lex.europa.eu/resource.html?uri=cellar:fa6ea15b-b7b0-11e6-9e3c-01aa75ed71a1.0001.02/DOC\\_1&format=PDF](http://eur-lex.europa.eu/resource.html?uri=cellar:fa6ea15b-b7b0-11e6-9e3c-01aa75ed71a1.0001.02/DOC_1&format=PDF)

poverty, on which they will have to report as part of their integrated progress reporting on the national energy and climate plans. Furthermore, the package sets out a new approach to protecting vulnerable consumers, which also includes helping Member States reduce the costs of energy for consumers by supporting energy efficiency investments. Moreover, in line with its efforts to empower and protect consumers, the Commission proposes certain procedural safeguards before a consumer can be disconnected. In this context, the Commission also launched in January 2018 an Energy Poverty Observatory<sup>182</sup> to provide better data on the problem and its solutions as well as to help Member States in their efforts to combat energy poverty.

Moreover the *WiFi4EU proposal*<sup>183</sup> acknowledges the need to ensure that the general public is encouraged to seize the opportunities that the digital transformation offers. The proposal will provide financial incentives in favour of local public authorities who want to provide free, high capacity local wireless connectivity through access points in the centres of local public life, whether within their premises or in outdoor spaces accessible to the general public.

In the field of *water and sanitation*, in follow up of committed action in response to the European Citizens Initiative 'Right2Water'<sup>184</sup>, the Commission adopted on 2 February 2018 a proposal<sup>185</sup> to revise the Drinking Water Directive, which includes several measures to improve access to safe drinking water and an obligation for Member States to ensure access for vulnerable and marginalised groups.

The Commission continues to support negotiations for the adoption by the EU legislature of the proposed European Accessibility Act.<sup>186</sup> The Act aims to ensure accessibility of certain products and services in the internal market, including some essential services like electronic communication and audio-visual media services.

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<sup>182</sup> <https://www.energypoverty.eu/>

<sup>183</sup> Proposal for amending Regulations (EU) No 1316/2013 and (EU) No 283/2014 as regards the promotion of Internet connectivity in local communities COM (2016) 589.

<sup>184</sup> COM(2014)177 final

<sup>185</sup> COM(2017) 753 final

<sup>186</sup> Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services - COM/2015/0615 final - 2015/0278 (COD).