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**CESI STATEMENT ON A REVIEW OF THE EU SECTORAL SOCIAL DIALOGUE**

**SOCIAL PARTNER  
CONSULTATION RESPONSE**

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*The European Confederation of Independent Trade Unions (CESI) is a confederation of more than 40 national and European trade union organisations from over 20 European countries, with a total of more than 5 million individual members. Founded in 1990, CESI advocates improved employment conditions for workers in Europe and a strong social dimension in the EU. Most of CESI's members represent workers in the fields of central, regional and local administration, education, training and research, security and justice, healthcare, postal services and telecommunications, defence and transport. CESI represents public and private sector unions. CESI participates in the European sectoral social dialogue on central government administrations, education and postal services. Members of CESI also participate in the dialogues on civil aviation and local and regional governments.*

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CESI welcomes the European Commission's plan to review the European sectoral social dialogue, with a view to improve its effectiveness, accountability, legitimacy and not least popularity and acceptance among the workforces. However, CESI deems it appropriate to hand over this review to an external consultancy or research institute which does not have any stakes in the social dialogue process, to conduct independent opinion-gathering and fact-finding and provide independent recommendations for reform for the European Commission to implement.

Beyond this, CESI is convinced that the European social dialogue at large as well as the interaction between the European Commission and social partners on policy initiatives that are not part of social dialogue should be reviewed to the same ends and in the same way.

## Part 1: Main messages on EU sectoral social dialogue

- 1. Sectoral social dialogue is an important tool to complement horizontal social dialogue.** It can give a voice and say to sectoral unions (“Fachgewerkschaften”), which can bring specific insights and added value that horizontal organisation often cannot. As such, sectoral social dialogue should be maintained at the EU level too.
- 2. The representativeness of the committees of the European sectoral social dialogue should be increased to a maximum in order to increase its effectiveness, accountability, legitimacy and not least popularity and acceptance among the workforces.**

Eurobarometer surveys keep finding that relatively few citizens (which are mostly workers!) know about EU social policy initiatives<sup>1</sup>, and likely even fewer know about EU social dialogue. At the same time, representativeness studies of Eurofound find that there are sectoral social dialogue committees where the union side represents only a minority of the unions in Europe.<sup>2</sup> As labour market situations where employment relationships continue to diversify and fragmentise over space and time impact negatively on union density and coverage, this share is likely to decline even further. This poses increasing problems for the legitimacy and accountability of social dialogue committees. The less unions – and hence the less workers – are represented in social dialogue, the more its legitimacy and sense are being questioned. EU sectoral social dialogue needs to be aligned to structural trends and new economic developments and be made future-proof and more popular and accepted among the workforces.

To this end, the reach to workers and thus the representativeness of committees should be maximised, which means that they should be (much) more inclusive towards further organisations to join. Every organisation that can demonstrate representativeness in Eurofound representativeness studies should be enabled to become a recognised social partner and be proportionally considered in committees.<sup>3</sup> At the moment, this is in most cases not possible. Those social partners that are already recognised decide upon the entry of new actors to a committee, but, naturally, this is in most cases not in their own interest. This results in remarkable situations where organisations have representativeness certified by Eurofound, and may even represent the biggest union in certain Member States, but are unable to accede to social dialogue.

The European Commission should enforce a certain automaticity in this process, whereby the findings of Eurofound representativeness studies also translate in real outcomes. For this, the European Commission needs to divert from its current mal-functioning definition of social partner autonomy which leaves the recognition of new social partners to those that are already recognised. In the end, albeit it is allegedly done in respect of the social partners’ autonomy, this harms and increasingly counteracts the legitimacy of sectoral social dialogue. When recognised social partners (which only represent a limited share of unions) are being entrusted, for reasons of their autonomy, with the decision to admit -or not- further organisations as social partners, the representativeness (and thus legitimacy) of committees suffers a blow – and monopolies are being funded and cemented. It should be noted that full autonomy requires large representativeness, negotiating powers and collective bargaining capacity, and not least the possibility to fall back on industrial action – where European social dialogue differs from the national ones as it is facilitated and financed under the aegis of the European Commission.

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<sup>1</sup> See, e.g. the Eurobarometer on social issues published in March 21: <https://europa.eu/eurobarometer/surveys/detail/2266>

<sup>2</sup> For example, in the committee on [local and regional governments](#), the social partner on the employee sides represents only 42% of all unions; in the [hospitals and healthcare](#) committee, it is only 32% of all unions. Examples where the biggest national union is not part of EU sectoral social dialogue include the Spanish SATSE (hospitals and healthcare sector) and the Spanish CSIF ([Central government administration sector](#)).

<sup>3</sup> This should be complemented by a reform of the methodology of Eurofound representativeness studies. They should not start with an analysis of existing social partners and deal with further stakeholders as an add-on but analyse the union and employer association landscape equally from scratch on a white page, and afterwards make a judgment on which organisations show representativeness and fulfill the conditions to qualify as a social partner, much clearer than it is currently practiced.

Social partner autonomy means that social partners can self-organise their work in committees. However, since the European Commission finances and facilitates social dialogue, it must establish the rules of the game and ensure a fair level-playing field for all stakeholders as well as balanced support for all parties. Therefore, a more active role of the European Commission to organise social dialogue would increase the recognition and legitimacy of social dialogue.<sup>4</sup>

- 3. The European Commission should make use of its organisational and financial power to aim at a greater effectiveness of sectoral social dialogue.** (Costly) Social dialogue should yield tangible outcomes and mean more than routine meetings. Moreover, to improve the contribution of EU sectoral social dialogue to EU policy-making, the European Commission should ensure full transparency and procedural clarity in the process leading from social partner agreements (which have been agreed in committees equipped with maximum representativeness and hence legitimacy; see point 2 paragraph 3 above) to proposals for Council directives to implement agreements EU-wide.

## **Part 2: Main messages on the interaction between the European Commission and social partners on policy initiatives that are not part of social dialogue**

- 4. The European Commission should render its stakeholder engagement on social policy initiatives that are not part of social dialogue broader, more pluralistic, and more inclusive.**

Where the European Commission envisages social policy initiatives, it must continue to consult all social partners as prescribed by the Treaties. If however it appears in two-stage social partner consultations that the social partners cannot agree to negotiate an own agreement, this means that the matter in question is no longer a social dialogue issue but an initiative that will or may be regulated by legislators (i.e. the European Commission, the European Parliament and the Council).

Here, in the preparation of legislative proposals, it should be in the interest of the European Commission to gather as many views and opinions and as much insights and expertise as possible, in order to make the best informed policy choices and arrive at the best and most legitimate possible policy outcomes. This means that the European Commission should proceed with **consultations** by **equally** hearing and involving **all** organisations with stakes and not continue a preferential treatment for horizontal social partner organisations. They have had their chance!<sup>5</sup>

To this end:

- 4.1. the European Commission should invite organisations to policy hearings on its own**, and not delegate this to the horizontal social partners who will, for their own interest, naturally keep delegations restricted to their own members. Horizontal social partner organisations should not decide who the European Commission can hear for its own policy initiatives;
- 4.2. the European Commission should directly invite organisations to larger social policy conferences which it organises or co-organises**, and not delegate this to the horizontal social partners. Horizontal social partner organisations should not decide who can participate at the European Commission's own conferences. Large-scale conferences should be meant to give a voice to the biggest number of stakeholders possible.<sup>6</sup>

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<sup>4</sup> EU social partner autonomy means that social partners are free to set their own agenda and work programme. They can negotiate and conclude agreements without interference of the European Commission or other institutions. However, the European Commission remains the initiator, facilitator, and financier of EU social dialogue, and Art 154 TFEU prescribes "*balanced support for all parties*". Therefore, social partner autonomy must be framed by the obligation of the European Commission to set clear rules and to ensure broad representativeness and inclusiveness. In the absence of such frame-setting, recognised social partners will always be tempted to ignore or deny legitimate claims of other organisations to become recognised too. In that case, social partner autonomy may lead to a position of monopoly of the recognised social partners – a monopoly initiated, financed and facilitated by the European Commission.

<sup>5</sup> See footnote 4 above.

<sup>6</sup> Examples where conferences took place at the (co-)initiative of the European Commission but where the decision on the composition of participants was essentially delegated exclusively to the horizontal social partners include the Gothenburg Social Summit 2017, the Porto Social Summit in May 2021, and, bizarrely, even the conference "A new start for social dialogue" in 2015 which meant to kick-start a process of deepening relations with (all?) social partners.

Moreover, the European Commission should provide equal opportunities to **all** European social partner organisations and their national members in the **European Semester cycle**. Currently, national-level consultations do mostly take place with the biggest trade union and social partner organisations but tend to leave smaller and independent unions aside. Formal EU level consultations involve only the horizontal social partners. To this end, **the European Commission should:**

- 4.3. **equally include all European social partner organisations in EU-level consultations on the European Semester;**
- 4.4. **ensure that the Semester Officers in the Member States proactively reach out for consultation also to national unions beyond the biggest ones;**
- 4.5. **provide funding for capacity-building specifically for independent and smaller unions to enable them to better understand the Semester process and contribute effectively.**

Further, the European Commission should ensure equal possibilities for **all** social partners to access its relevant **expert groups** and the **statutory bodies of EU agencies** which report to the European Commission's Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL). In view of this, **the European Commission should:**

- 4.6. **run open calls for expressions of interest among all European social partner organisations when seats for a relevant expert group are to be distributed, and select members in a transparent manner based on their justified stakes, experience and expertise.** The decision on the composition of the European Commission's own expert groups should not be left to horizontal social partners, who will for their own interest only consider their own members.<sup>7</sup>
- 4.7. **ensure that open calls for expression of interest conducted by agencies reporting to DG EMPL for seats in their statutory bodies take place and that selections are made based on justified stakes, experience and expertise,** respecting the clauses and spirit of the legislation on which they are based. Where legal provisions stipulate that Union-level social partners should be considered for a committee/group/body, this also necessitates an open call and transparent selection procedure among all Union-level social partners. Just delegating nominations to horizontal social partners will effectively leave out other Union-level social partners and thus be in contradiction with the legal provisions governing the process.<sup>8</sup>

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<sup>7</sup> For example, the selection of stakeholder organisations for the [Commission Expert Group on implementing Directive \(EU\) 2019/1152 on transparent and predictable working conditions](#) was only notified to horizontal social partners. Other stakeholders were left out; there was no open and transparent selection procedure based on stakes and expertise. Despite repeated requests by CESI to be able to participate in an application procedure, decisions were taken behind closed doors and CESI was ignored.

<sup>8</sup> For example, [EU Regulation 2019/1149](#) establishing a European Labour Authority (ELA) requires an ELA advisory Stakeholder Group with "*representatives of the Union-level social partners [...], including recognised Union sectoral social partners representing sectors that are particularly concerned with labour mobility issues.*" Yet, no call for expression of interest was issued to all Union-level social partners to determine which organisation is concerned with labour mobility and should accede to the group. Instead, all seats were given behind closed doors to the horizontal social partners. There was a two-fold violation of the Regulation in the process: (1) Not all Union-level social partners were considered but only the horizontal ones, and (2) seats were distributed based on the status of being a horizontal social partner rather than on the basis of arguments justifying that an organisation's affiliates are particularly concerned with labour mobility.