

Foreword

The Amsterdam Treaty has undoubtedly served, to a significant extent, to strengthen the social dimension of the process of European integration. That the social protocol has now been fully incorporated into the EU Treaty, thereby increasing recognition and enhancing the value of social dialogue, is a definite step forward, as is the inclusion of an employment chapter which has enabled the European employment strategy to begin to take shape.

The current Intergovernmental conference, to be concluded at the end of 2000 under French presidency, represents an opportunity for the enshrinement in the EU Treaty of fundamental and citizen rights. Awareness of a need for comprehensive Treaty reform has grown considerably and the demands voiced by the European Parliament, the trade unions and the NGOs for a binding catalogue of fundamental rights are gaining increasing support. At the EU Summit in Biarritz the Heads of State and Government approved the draft European Charter of Fundamental Rights, a text which also contains fundamental social rights, including the right to collective bargaining and collective measures (including strike). The Charter is scheduled for final adoption at the EU Summit in early December, albeit, as is now becoming clear, in the form of a solemn declaration only and not as a legally binding component of the EU Treaties.

Already in the run-up to the Amsterdam Intergovernmental conference, the European Trade Union Institute (ETUI) supplied backing to a group of independent academics who, in a “Manifesto for a Social Europe” issued in 1996, argued for a European social citizenship and European collective bargaining autonomy.

In the framework of the new Intergovernmental Conference we have once more taken advantage of the opportunity for involvement in the discussion surrounding revision of the EU Treaty. On the basis of the 1996 Manifesto, the same group of academics has prepared an updated and revised version. This contains support for, among other things, the central demands put forward by the ETUC for European collective bargaining autonomy and transnational trade union rights.

The Manifesto has already received the signatures of more than 130 European academics (see appendix) who share the fundamental positions adopted by this text and support the general demand for a strengthening of social Europe. By enshrining the Charter of Fundamental Rights in the EU Treaty when they meet in Nice at the beginning of December, the EU Heads of State and Government have an opportunity to regain citizens' trust in the progress of the European integration process. In the run-up to EU enlargement this is an urgent necessity.

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A Manifesto for Social Europe 2000

Europe: The Malaise after Amsterdam

The Manifesto for Social Europe of 1996 opened with the declaration that:

Europe has the potential to be a dynamic force for global economic, social and cultural progress. But the European Union is paralysed by nationalism, monetarist economism and the protectionist self-interest of Member States.

After the Treaty of Amsterdam, and on the eve of the new millennium, the European Union remains paralysed. Nationalism is reinforced by a static and rigid interpretation of subsidiarity. Monetarist economism blocks democratic control over the European Central Bank and creates obstacles against effective implementation of the new Employment Title of the EC Treaty. Protectionist self-interest prevents Europe taking a lead in reform of the global trading system.

The Manifesto for Social Europe of 1996 continued:

A strong social policy is needed in Europe: to enhance cooperation and innovation, encourage economic competitiveness based on quality, and provide a powerful set of incentives for social cohesion.

Five years later, the Member States of the European Union are preparing for an Intergovernmental Conference (IGC) in December 2000. What are the IGC 2000's main priorities?

There is enlargement, which means the procedures for application and admission of new Member States. There is institutional reform, which aims to reform voting in the Council, the number of members of the Commission, the case load of the European Court and the composition of the European Parliament. There is even common security and defence policy, aiming at management of military and non-military crises. The prospects of a Charter of fundamental rights remain highly uncertain.

Where is Social Europe?

The Manifesto for Social Europe 1996 declared:

The European Union needs a new “vision”, capable of convincing the people who work and live in Europe, and leading them to a commitment to its further development and progress.

The only remedy for the malaise of current European integration policy is a democratically and publicly constituted Social Europe. The European Union must secure for its citizens fundamental social rights, thereby gaining their trust in, their consent to and their active support for – and hence the legitimacy of – the further progress of European integration and modernisation.

The Absence of a Social Agenda for IGC 2000

The failure to incorporate a social policy dimension into the IGC 2000 agenda endangers the enlargement of the EU, undermines institutional reforms and threatens the security of Europe.

Enlargement of Social Europe

One starting point is the current debate on enlargement. Enlargement should be not only to excluded states. It should be enlargement to the excluded peoples of Europe. Enlargement should aim to include in the prosperity of the EU also the constituencies of the poor, the unemployed, the old, the ethnic minorities and others whom the

common market has excluded, as well as nationals of non-EC Member States. This is why, within the process of enlargement, there should be clear requirements by the present Member States as to the conditions to be met by the accession States and for their people. Enlargement should not mean only extending the market to new states, territorial and economic aggrandisement. Social Europe is not about excluded states. Social Europe is about excluded people.

Social Manifesto 2000 explores how the European Union can enlarge social citizenship to reach people in the Member States and the non-Member States who are excluded from the economic prosperity it has created for only some of its people.

Institutional Reform of Social Policy

Institutional reform is important. But the IGC 2000's institutional reform agenda ignores the special institutional arrangements for social policy. The Maastricht Protocol and Agreement on Social Policy, now Articles 136 to 139 of the EC Treaty, installed labour and management as central actors in the formulation of EU social policy through the European social dialogue. The institutional reforms needed are not to Council voting procedures or numbers of Commissioners. The problem is that the European employers' organisations refuse to engage in social dialogue or develop sectoral organisations capable of engaging in social dialogue. And the Commission has failed to adopt a general legislative programme, which would promote and stimulate the social dialogue.

Social Europe requires mechanisms which will stimulate action by the social partners and EU institutions to achieve the necessary social policies. Social Manifesto 2000 addresses the question of how EU institutions and the actors in the social dialogue can become more actively, and co-operatively, engaged in the process of creating Social Europe.

Social security and social protection policy

A common security and defence policy is irrelevant to the problems of unemployment, poverty and social exclusion, which are far more threatening to Europe than any military crisis. What is needed is not dialogue among military establishments but among the civil societies of Europe. The Social Manifesto of 1996 included proposals on social convergence criteria for monetary union and developed a proposal for European social citizenship, with implications for gender policy, social exclusion and a European public sphere. The implementation of this agenda engages non-governmental organisations in social policy making.

Social Manifesto 2000 explores the potential scope for an EU civil dialogue and how a dynamic can be developed between civil dialogue and the social dialogue in order to promote Social Europe.

Although there is proposed a Charter of fundamental rights, incredibly, some Member States are resisting giving fundamental rights any legal status in EC law, or allowing only civil and political, but no social rights, or, if any social rights are allowed, they are to be strictly limited, to be only programmatic and not justiciable rights, and to be surrounded by declarations that the EC's social competence is not to grow!

This Manifesto assesses the progress of Social Europe in light of the analysis and agenda in the Social Manifesto of 1996. It has been prepared for the IGC 2000.

Europe: Only Half Way There

1 Serious decisions on the further development of the European Union (EU) are imminent. The importance of the EU increased with the Single European Act and the Maastricht Treaty. It will continue to increase with the implementation of European Monetary Union and the proposed enlargement of the EU. The IGC planned for December 2000 has serious problems to solve.

Although there was some progress in the Amsterdam Treaty, the EU still has an uneven record of social achievement. Economic union has so far failed to overcome mass unemployment and structural disparities. The Amsterdam Treaty included new Titles on Social Policy and Employment, but a Social Europe is still not in sight with continuing trends towards both “re-nationalisation” (“Europe a la carte”, with different speeds and “opt-outs”) and a mere “free market” (and common currency) zone (“EFTA-isation” of Europe). Social issues, in particular, are still under pressure from the subsidiarity principle, and, as a result, there is little or weak Community action on social policy.

Options for the enlargement of the EU do not demonstrate a clear political will to “deepen” the Union. The IGC 2000 is expected to recast the institutional framework before enlargement. However, a real “deepening” of the EU would require a serious effort to integrate the political, the economic and the social dimensions of the EU. Despite the recent debates on a “constitution” for the European “federation” and about the “avant-garde” role of certain Member States, no such political will to achieve this integrated European policy is in sight.

2 In its origins, the EEC was a predominantly economic and market union. Social and political cohesion was expected, in line with neo-functional theory, to result as a spill-over of economic growth and the elimination of market frontiers. Despite the neofunctionalists’ beliefs, political cleavages and social inequalities have not been overcome; rather, they have increased.

Now the EU has powers of supranational regulation, and is creating a currency to replace those of the Member States. But it is still far from having democratic political and social legitimacy. This holds not only for European political institutions and legislation, but also for European social institutions and collective concertation. Employers at European level (UNICE in particular) are still reluctant to accept political and social responsibilities. This combines with the failure to establish employers’ organisations on a sectoral basis to frustrate the development of effective collective bargaining. As economic and labour market performance lags behind expectations, and unresolved social problems accumulate, technocratic decision-making within the EU is increasingly being blamed and peoples’ trust is lost.

Challenges and Opportunities

3 The EU remains locked in a deep legitimization crisis. Slight progress was achieved by the Amsterdam Treaty's upgrading of the employment issue and the social dialogue in the new Treaty Titles on Employment and Social Policy. There are various forms of civil dialogue and discourse. Forms of social concertation which involve non-governmental organisations at European level, not only social partners, are now beginning to be practiced by EC institutions. However, European citizens still see Europe as a "geographical expression" – not as a "patria" stimulating a positive affective relationship and with which they could identify, or where they could feel "at home". Europe still has to develop an identity which is attractive for, and can be "felt" by, its citizens. It cannot remain a merely economic and functional entity. There has to develop a social and democratic Europe.

The broad majority of Member States have labour or social-democratic dominated governments. However, most of these governments lack both national and European visions of social reform. Although the situation is favourable to a change of direction towards Social Europe, there is missing both a convincing vision, and the political will to take steps to translate it into reality.

The Intergovernmental Conference of 2000 on the revision of the European Union Treaty has the historic opportunity to restore the trust in, the political and social support for, hence, the "legitimacy" of the European project. It has the opportunity to reduce the distance between European civil society and the EU. This requires more than marginal adjustments and minor institutional reforms within the existing framework of the EU. What is needed is a new democratic political and social constitution of the Union. Political democratisation must be accompanied by the foundation of a "Social Europe" – one which is more than a side-effect of the economy and the market, more than a social "buffer" against the negative repercussions of a globalised economy.

This Manifesto focuses on the requirements of a “Social Europe” which is interdependent with political and economic integration. The Manifesto argues that Social Europe is a precondition not only of the social well-being of the citizens of the EU, and of the cohesion and productivity of society as a whole, but also of long-term economic performance.

4 If the requirements of Social Europe continue to be neglected, the outcome will be – particularly under present conditions of enlargement to 28 or 30 Member States - a chaotic, atomised, brutal, even violent and xenophobic development of society. If the challenge of creating a Social Europe is met, there is the prospect of renewal of the European project based on the idea of a European “bonum commune”.

The Interdependence of Social and Economic Integration

5 The mainstream of European integration policy, under the guidance of neo-classical theory, isolated allegedly economic imperatives from the requirements of social cohesion. The purely economic foundations of the EEC, the Single Market and EMU are the result of such reduced “economism”. All assume that economic progress will automatically entail social and societal progress. This assumption has led – despite the present hegemony of labour and social democratic governments in Europe – to a European “market-economism” which threatens its social and political foundations.

Europe still needs social convergence criteria. Social rights and market regulation are not obstacles to economic and societal progress and modernisation; on the contrary, they are prerequisites of the latter. Social convergence criteria – supported by a strong political will – are necessary for the Economic and Monetary Union in order to overcome mass unemployment, provide skills and guarantee equal opportunities; in other words, to achieve an equilibrium between political, economic and social integration. Mechanisms must be created to secure the implementation of these social convergence criteria.

Social convergence criteria – for example, mandatory benchmarking of Member States on criteria such as employment, vocational training, equal opportunities, etc. – are not easy to implement. But the lesson of the strict monetary and budget criteria of the Maastricht Treaty is that even very difficult criteria can be met if there is a strong political will. A political will for Social Europe will achieve social convergence criteria.

6 Both left and right tend to see social rights as the opposite to market or economic rights, as constraining market forces or redistributing the results. But social rights are fundamental to a market order. Labour market rights (access to training, fair treatment, non-discrimination) are minimum conditions for a properly functioning labour market. The decentralisation of resources (and power) essential for a self-organising market cannot be achieved without consideration of distributional issues.

Without social rights, the “creative destruction” of market systems (for example, through technological change) may lead to economic progress for some, but with distributional distortions denying its benefits to a significant proportion of the population. The profound inequalities resulting from such a process threaten to destroy the very foundations of the market order. To avoid this, labour markets need to be transformed by a high level of democracy and participation, and a commitment to social citizenship.

Social rights in Central and Eastern Europe

7 Social Europe is a huge challenge for enlargement of the EU to the candidate countries of central and eastern Europe. The previous regimes denied political citizenship rights in exchange for guarantees of social protection rights. The new governments have reversed this policy: political citizenship has been established, but social citizenship has been withdrawn, leaving large groups - due to severe cuts - unprotected by social security and welfare systems. Poverty, chaotic economic structures, and lower productivity contribute

to their great difficulties in meeting the needs of competition with the EC Member States. Privatization and exposure to the market of former systems of healthcare, childcare, housing and education have exacerbated the consequences of growing inequality, poverty and social exclusion. These processes are damaging to the whole society and may threaten democratic achievements.

There is a strong social and political need for the recognition and practical implementation of social values and rights by the new regimes of central and eastern Europe. To combat the false identification of social protection with the former regime, Social Europe should make clear that enlargement includes not only the common market, but also a highly developed social dimension of the EU.

Global Economy - Global Solidarity

8 The 1999 WTO Conference in Seattle demonstrated that Social Europe must include a global dimension. Not only the common agricultural policy, but also social policy in Europe can impact on less developed parts of the globe. Social rights are universal rights, but their achievement in the poorest countries of the world imposes an obligation of solidarity on the EU. If the EU expects poor countries to honour universal standards, it must in certain areas undertake to shoulder the cost which they can less easily afford. Anything else is mere cynicism.

Social Europe needs to shape and implement instruments and measures to enable poorer countries to adopt and enforce social standards.

Social Citizenship: A Cornerstone of European Integration

9 Before the IGC of 1996, the Manifesto for Social Europe argued for social citizenship to be a cornerstone of the Social Europe necessary to European integration. There has been little progress

since then – neither in formal recognition of social rights of citizens, nor in mechanisms to implement and enforce citizenship rights in practice. The Maastricht Treaty on European Union created a concept of Union citizenship, derived from citizenship of the Member States. It is significant that the Amsterdam Treaty's new Title on Employment and the Social Chapter are in separate parts of the Treaty. The concept of social citizenship, and how to achieve it, is not addressed.

The recent debate on fundamental human rights in the EU has put the subject back on the agenda, but with a danger that fundamental rights are confined to traditional civil and political rights, excluding modern social rights altogether, or marginalising social rights as legally non-binding. European citizenship involves rights to social integration and participation in civil and political, but also economic life. Social rights are more than mere “freedoms” – they include positive rights to training, work, welfare benefits, etc.

Social citizenship implies a floor of enforceable fundamental social and economic rights and an equilibrium between the market and public welfare. These are the cornerstones of Social Europe.

A modern European status of workers will consist of a set of universal human rights and citizens' rights. This status implies human rights – such as freedom to work, freedom from being discriminated against, and freedom from being socially excluded. It implies institutions and procedures empowering social and civil actors capable of enforcing these rights. It implies an active role in the enterprise, in the state and in society – not just as recipients of welfare state benefits, but as responsible actors. Social citizenship is not confined to political citizenship (as in Part Two, Articles 17-22 of the EC Treaty). There is a need for a concept of social citizenship which allows for the public sphere to enter the allegedly private sphere of work and employment.

European social citizenship is a status with rights of social integration, protection and participation for all who work and undertake responsibilities for the benefit of society. Work is not only employment, but includes other activities upon which society depends. Social citizenship is the entitlement of all who perform work.

Citizenship rights are not only privileges of citizens. They include the obligation of solidarity towards non-citizens (aliens) and towards workers in other countries.

10 One key element of Social Europe is to develop policies concerning the relationship between human beings and work. Work has a double impact on those who depend on it. In the case of paid work, people both earn their living and are integrated into society. However, work is not confined to paid employment. Work also consists of other social activities which are necessary for the existence and survival of society (child-care, elder-care, etc.). For this reason, a legally guaranteed status, a floor of rights, for all workers – employees as well as those in other societally desirable activities – is necessary. A legal status for workers is a precondition of their social recognition by society, of social citizenship.

11 In post-communist central European countries social citizenship requires, in particular, the acknowledgement of the right to work as a constitutional right. The experience of a lack of work, of a lack of elementary job security and of social exclusion can discredit and undermine the transition to democracy and freedom in these countries. The danger is compounded by the growing democratic deficit at the workplace. Intimidated workers cannot constitute a free society, especially if they do not see any difference from the past, when uncritical trust and obedience was a standard expectation.

Social citizenship does not oppose collective representation of employees. Forms of collective representation, such as European works councils, trade unions or the social dialogue, are necessary complements for individual rights and should be protected by collective rights.

Key elements of social citizenship include rights to democratic participation at the workplace, working-time options, social protection and re-integration of those who perform socially desirable activities other than gainful employment, including entitlement to benefits and services not linked to employment and seniority, and protection against

discrimination, precarity and exclusion. Social citizenship is obviously not restricted to standard (full-time permanent) workers, but also includes fragmented parts of the workforce, as well as those who do not work, and workers from outside the Member States.

Social Citizenship and Gender Policy

12 EU policy on gender has been reinforced by legal measures in recent years: in primary EU law, the duty of “gender mainstreaming” (Article 3(2) EC), the extension of the power to take positive action (Article 141(4) EC), and also action programmes, expert networks, and other measures. However, the objective of equality between men and women, and procedures to enforce it through positive action policies, have to be made the subject of a fundamental European right.

European social citizenship implies legally guaranteed equality and solidarity between the sexes and the absence of any discrimination.

Social citizenship implies anti-discrimination and equal opportunities policies, and their effective implementation. This should form part of a fundamental social right. There is evidence that such policies fail in the absence of a new division of labour between men and women. Unless policies open the full range of employment opportunities to women, and attract men more into the domestic sphere, there will continue to be an unequal division of labour between the sexes in the family, employment and society.

One response to the gap between recognition of sex equality in law and unequal treatment of men and women in practice has been the official policy of “gender mainstreaming”. As stated in Article 3(2) EC: “In all the activities [of the Community, set out in Article 3(1)], the Community shall aim to eliminate inequalities, and to promote equality, between men and women”. However, anti-discrimination policies should not be applied to adapt females to male roles (or vice versa). Equality should be applied as diversity without discrimination.

Hence, traditional anti-discrimination policies must be accompanied by new gender policies covering all policy fields – economic and structural, education and training, labour market and information technology, etc. Certain human needs and desires nowadays appear as specific to women. However, they are likely to be perceived as more general, and increasingly important, for both genders in the course of the on-going process of individualisation in society. Legal strategies must try to make, for both sexes, working life more compatible with the exigencies and needs of family life, housework, elder-care, etc. (working time, parental leave, territorial “time pacts” reconciling local and regional time schedules). Gender related policies are becoming a basic requirement for all humanity.

Gender issues have special impact in central and eastern Europe. High levels of female employment and public participation were considered a communist imposition to be reversed. Ensuring for women the “freedom of choice” as between career and family had been considered as an achievement and liberation of women. The current backlash has been accompanied by economic pressures, and the disappearance of cheap social services, leading families to retreat towards traditional gender roles. To fulfil the promise of the declarations of gender equality in constitutions and laws, intensive efforts, including positive action, are required. The clear commitment towards gender equality should be made a requirement for accession to the EU.

Social Exclusion is Incompatible with Social Citizenship

13 Recent trends towards heterogeneity of contractual and occupational forms of work, geographical dispersion and fragmentation of the workforce pose a serious threat to human rights and social citizenship. Whatever the need for diversity and difference, disparities and discrimination against certain groups of workers – Community nationals or extra-Communitarians (all are to have rights of social citizenship) – cannot be tolerated.

Social citizenship implies universal rights, not coupled to employment and subordinated work, protecting against social exclusion.

A revision is necessary of the existing legal concept of the “employee”, and of thresholds which restrict the coverage of social protection. “Bridges” towards the primary labour market (such as vocational training and other forms of active labour market policy) have to be made available to avoid the “traps” of precarious work. There should be a core of rights to social security which do not only depend on employment status.

In many European countries – particularly so the central European candidate countries – reference is made to the “freedom” of so-called “autonomous” workers, who are de facto dependent. This false characterisation is more common and more difficult to reveal and unmask in countries where “entrepreneurship” is glorified by contrast with the former east European type of dependence. There is even greater and more urgent need for measures to prevent the marginalising effect of precarious forms of employment in those countries.

Social citizenship and trade unions’ freedom of association

14 A crucial feature of the proposed European social citizenship is the role of autonomous collective bargaining structures and, therefore, of voluntary collective associations, in particular, trade unions. This has been recognised by the Member States in the Treaty of Amsterdam, which promotes European social dialogue on social policy proposals. But the remarkably high and rapidly increasing degree of globalisation of multinational firms and economic interdependency creates an urgent need for countervailing power on the workers’ side, to achieve the social adjustment to economic change.

Autonomous collective actors must be able to constitute themselves, and enabled to act in practice with a view to effective collective self-regulation. This implies measures enabling them to overcome employers' resistance to entering into social dialogue and negotiating agreements.

A fundamental right to collective bargaining and recognition of collective agreements would remove the threat, recently posed in Cases C-67/96, C-115-117/97 and C-219/97 (Albany), by European competition law. In sum, a fundamental right to collective self-organisation.

Within the candidate countries of central and eastern Europe, the position of trade unions has been greatly weakened as a consequence of privatisation and economic restructuring. The situation is exacerbated by the organs of the new regimes (governments, judiciary and constitutional courts), which regard trade unions as obstacles in the way of an efficient market economy. Social Europe requires government organs to support and promote the social partners and collective bargaining, in particular, at multi-employer or national level.

A European Public Sphere to Guarantee Social Citizenship

15 An equilibrium of the public and the private spheres, a precondition of western European legal, social and state culture, requires a dynamic and process-oriented framework for European social regulation. It also requires areas of public economic activity, now increasingly threatened by privatisation and marketization. Economic and Monetary Union not only fails to provide for such equilibrium at European level, it endangers the equilibrium in the Member States. A "European public sphere" is needed as a constitutive element of the emerging European Union.

It is necessary, not only as a democratic requirement, but also in order to give "voice" to those societal groups which cannot articulate their interests via economic, political or bureaucratic channels.

The European public sphere provides a democratic forum of public reasoning, to achieve consensus on the public services required to meet the social needs of all European citizens.

Issues are wrongly deemed to be in the private sphere, which are of social concern and should be placed in the public sphere. This allows for a public debate, aiming to achieve consensus on issues such as the relationship between gender, work and reproduction, and how to societally regulate it; on social citizenship and how to safeguard human dignity by means of social protection against poverty and exclusion. The public (the societal) has hitherto mainly been regarded as the domain of the state. The state, however, seems to be in crisis – in particular, the welfare state which consisted of public social services and infrastructures. The European public sphere underpins the development of the “societal” within the framework of a European civil society, and is not barred by the link of the “public” to the Nation State. The European public sphere needs an increasing effectiveness of civil dialogue, or a plurality of European civil dialogues. These dialogues will be characterised by their “openness”: they are no longer restricted to the classical partners (the social partners). Rather, constituencies of citizens involved in the outcome of European policies are to be integrated into the process of articulation and decision-making.

A European Constitution

16 The European Union is to be enlarged to central, eastern and southern European applicant countries. The process of “widening” alone will weaken the cohesion of the Union, unless it is accompanied by a process of “deepening”: a process of “constitutionalisation”. Europe still lacks a constitution. There is no adequate democratic framework for European elections and decision-making. The superior weight of the Council strengthens national executives rather than being a European legislature. The European Parliament still lacks the powers of initiative and decision-making of a “real” Parliament. The Commission lacks the power (and duties) of a government. Fundamental rights are absent: either they are not law at all (the Community Charter of 1989) or they have relatively low status

with respect to primary or secondary EU law (as with the European Social Charter, or ILO Conventions). The Charter to be proposed under the French Presidency risks falling short of what is required if there is no legal provision binding public power to fundamental values, or no provision for empowerment of citizens to make effective use of rights and opportunities. In order for the essential “deepening” to precede the proposed “widening”, these institutional deficiencies must be overcome by the Intergovernmental Conference of 2000.

17 A European social constitution needs a structure with a strong dynamic element able to articulate and deal with problems in a fast-changing economic, social and political environment. Not fixed substantive rules; rather guaranteed procedural frameworks allowing for, and empowering, self regulated social justice. European collective bargaining provides the basis of such a framework, but involves the extension and strengthening of the competencies of the social and civil dialogues. “Subsidiarity” operates in two directions. Citizens affected should be allowed to negotiate and solve their problems through dialogue. But to do so they must be “empowered”; the provision of know-how, negotiation rights, and “material support” is necessary to ensure that the articulation of their rights and opportunities can be effected, and avoid their subversion by powerful interests. Subsidiarity as a dynamic principle provides, in a multi-tiered system of governance, both self-government and solidarity.

Subsidiarity and Solidarity: An Active Dynamic of the European Union

18 The meaning and importance currently attributed to the principle of subsidiarity over-shadow the fact that the Treaties equally recognise both subsidiarity (Article 1 of the Treaty on European Union and Article 5 EC Treaty, with the Amsterdam Treaty’s addition of a Protocol on the application of the principle) and the principle of solidarity (Article 2 of the EC Treaty). Current interpretations and applications of subsidiarity ignore the rationale which links these two principles.

Subsidiarity is a “dynamic principle”: it does not hinder European action; rather, it requires European action which is needed to enable, or “empower”, lower levels, such as the Member States, to act effectively.

The subsidiarity principle does not postulate policies of non-intervention and deregulation, as many of its supporters falsely claim. On the contrary, vertical subsidiarity implies a duty of the higher level (e.g. Europe) to actively intervene, to support the lower level (e.g. the regions, the Member States), where policy objectives are not sufficiently achieved. This duty of support reflects the impact of the “dynamic” approach to subsidiarity as it interacts with the solidarity principle. Similarly, horizontal subsidiarity implies that state institutions – on both national and European levels – actively intervene to support voluntary structures (e.g. collective bargaining and social dialogue at European level), in order to promote autonomous collective self-determination and self-regulation.

The basic regulatory principles of the European Treaties, therefore, do not hinder the foundation of Social Europe; on the contrary, they require it.

A European Social Constitution

19 The European Union will only avoid the menace of resurgent nationalism, protectionism, and EFTA-isation if it develops a new foundation of legitimacy on which to build its future. The task of legitimising the EU is one of the most important challenges facing Europe. The Amsterdam Treaty did not meet this challenge.

Social Europe requires a floor of commonly shared commitments, and efficient and effective mechanisms for their implementation and enforcement. This remains as one of the main objectives of the Intergovernmental Conference of 2000.

With the integration into Articles 136-139 of the EC Treaty of the Maastricht Agreement on Social Policy, many of the legal and social policy requirements stipulated by this Manifesto would be met if the

Community Charter of Fundamental Rights of Workers of 1989 would be taken – together with the revised European Social Charter of the Council of Europe and other international covenants – as a basis for the formulation of European fundamental social rights. The formulation would be concretised through a European process including social and civil dialogues.

The mere codification of fundamental social rights without mechanisms of effective implementation is insufficient.

The revised Community Charter would serve as guiding principles for a European social constitution. The integrated social chapter (Articles 136-139) is the basis and starting point for a practical procedure and mechanism for implementation and enforcement of these principles.

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