

European Pillar of Social Rights: Member states must shoulder the responsibility of delivery

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The European Commission continues to pursue its goal of building a stronger social Europe with the recent publication of the Social Fairness Package. Released on 13 March, it is a follow-up to the European Pillar of Social Rights (EPSR) adopted in November 2017.

The package consists of three main initiatives: a proposal for a regulation establishing a European Labour Authority (ELA); a proposal for a Council recommendation on access to social protection for all workers and the self-employed; and a communication on monitoring the implementation of the EPSR. The package also indicates that a proposal for the creation of a European social security number will be made later in 2018. The number – to be provided in the form of a digital identifier – will help in three main areas: facilitating the portability of rights across borders, allowing for real-time identification and verification of social coverage, and preventing errors and fraud.

This Commentary indicates that although the package demonstrates a strong social commitment at the EU level, it will fail to provide an effective delivery of the Pillar without sufficient funding support in the next Multiannual Financial Framework (MFF) and a shared commitment at the national level.

A twofold message: balancing out the internal market and a more protective Europe

The package represents a balancing act between internal market principles and promoting social rights across the Union. The proposal for the establishment of an ELA is based on the argument that freedom of movement (including labour mobility) is one of the most cherished principles of the internal market, and an essential requirement for its good functioning. Furthermore, the completion of a European single labour market would improve the resilience of the currency union in the case of asymmetric shocks across the Union. The ELA would boost the growth potential of the internal market by stimulating labour mobility by addressing existing obstacles.

At the same time, and in line with the EU's growing dedication to reinforcing its caring dimension, the Commission's proposal also insists on ensuring a safe and fair environment for labour mobility and creating confidence in the EU's ability to protect and empower mobile citizens. The ELA would thus promote 'clear, fair and enforceable rules' by giving individuals and employers easier access to information about their rights and obligations with regards to labour mobility and social security coordination, as well as to relevant services. The enforcement of mobility rules is foreseen through the strengthening of operational cooperation between national authorities (such as joint labour inspections) and the provision of mediation in cases of cross-border disputes between member states. Lastly, the protective dimension of the ELA is completed by a recommendation that encourages member states to ensure effective social coverage for all workers and the self-employed.

The Social Fairness Package: does it serve the Pillar's initial purpose?

As a legislative follow-up to the EPSR, it is worth asking whether the package is fit for purpose and lives up to the initial ambition of the Pillar. The Pillar was intended as a compass to drive a renewed process of convergence towards better working and living conditions across the Union.

Social non-profit organisations (NGOs) and some trade unions have already expressed their disappointment with the legislative follow-up to principle 12 of the Pillar, which deals with social protection.¹ In fact, there were hopes that the principle would finally lead to a legally-binding directive. But even if such a directive had been legally feasible, it would have been politically very difficult, if not impossible, to garner the needed support in the Council. Indeed, there are fears of losing national competences and resistance among member states, in particular the Central and Eastern countries as well as the Nordic ones. The advocates of a directive stress, however, that a legally binding instrument would have had a more tangible effect on national legislation and, *de facto* on social convergence.

Almost 40% of people at work in the EU are in non-standard forms of employment, i.e. either working with a fixed-term contract, a part-time one or they are self-employed. This is a significant share of the workforce and it has implications for individuals' social coverage and the sustainability of the social protection system. Against this background, addressing the scope of the challenge ahead requires more than a Council recommendation.

The impact of the ELA is also likely to be muted by some legal constraints. Although it is meant to play a role in mediating possible cross-border disputes, the conclusion of the mediation is of a non-binding nature.

Calling on the responsibility of the member states

While the package represents a strong political commitment from the EU to strengthen the Union's social dimension, it perpetuates the existing tensions between the fundamental principles of the internal market and the adequacy of the tools available to address some of their social implications.

The success of the Pillar will hinge on its implementation on the ground and the sense of ownership at the national level. Three elements are decisive in that respect; the need to monitor the Pillar in the policy coordination process at the EU level, i.e. the European Semester; the integration of the Pillar's principles into the EU social *acquis*; and the budgetary instruments made available for its delivery.

While the country reports showcase a far-reaching inclusion of the Pillar in the European Semester and a growing attention to social issues, the Commission has certainly gone as far as it could on the legislative side. The question of the budgetary instruments remains, and will be the subject of intense discussions in the upcoming negotiations on the next MFF. Here again the role of member states will prove vital. Past experiences show that a Council recommendation is most impactful when it is supported by some EU funding. Financial support can incentivise member states to align national policies with funding priorities. Linking an EU political initiative with some financial support needs to apply in the next MFF, as without funding the Pillar will be nothing more than a paper tiger.

The ball is now in the court of the member states. All of them have endorsed the Pillar and committed themselves to the effective implementation of its principles. Ahead of the tripartite social summit to be held on 21 March, it is key to remind heads of state and government to shoulder their responsibilities if they really want social convergence to be more than wishful thinking. Mainstream parties as well as governments must not ignore the costs of a non-social Europe and the political backlash it is likely to trigger. The European elections in May 2019 are looming on the horizon. In the absence of effective delivery on the Pillar's principles, citizens are likely to 'punish' ruling governments by voting for Eurosceptic forces, making any progress on Social Europe even more difficult.

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Disclaimer: The views expressed in this Commentary are the sole responsibility of the author.

¹ Principles 12 stipulates that "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".