

# **The Role of the EU in Shaping Work Representation to Meet New Challenges and Reinforce Social Dialogue**

(and proposals to update the EU Treaties to enable the social partners to  
meet future challenges)

DRAFT



*To Emilio Gabaglio,  
who led us to the place where our journey has begun*

**DISCLAIMER**

**The ShaPE project examines the role social partners have played in treaty-making and law-making for social Europe. The project is led by Professor Claire Kilpatrick, co-Director of the Academy of European Law.**

ShaPE deepens our understanding of the role played by trade unions, employer organisations and EU institutions in making and shaping Social Europe until now. This new knowledge will help us reflect on what roles they should play in meeting current large-scale challenges, most notably green, digital and demographic transitions as well as the objectives of EU 'open strategic autonomy' and resilience.

Social Europe's foundations will be explored through innovative archival and multidisciplinary analysis of EU Treaty-making and law-making, providing a meta-archive and public history digital exhibition to serve as a template and anchor for future research.

During the course of the project, ShaPE's researchers have produced academic analysis as well practice-oriented reports and proposals to update the EU Treaties to enable the social partners to meet future challenges.

ShaPE is funded by the European Union. Views and opinions expressed are however those of the authors only and do not necessarily reflect those of the European Union or the European Commission. Neither the European Union nor the granting authority can be held responsible for them.

This report was edited under the direct responsibility of Sindnova and Fondazione Di Vittorio, as leading organisations of Work Package 4 of the SHAPE project. *It does not represent the personal view or stand of any individual participant in the experts' group, nor the position of vision of any individual organisation taking part in the SHAPE Project.*

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## MANDATE

The ShaPE project examines the role that social partners have played in treaty-making and law-making for Social Europe. The foundations of Social Europe have been investigated through innovative archival research and a multidisciplinary analysis of EU treaty formation and legislative processes. ShaPE enhances our understanding of the contributions made by trade unions, employers' organisations, and EU institutions in constructing and shaping Social Europe to date.

Within this project, **the ASPE Group** (Academic and Social Practitioners Expert Group)<sup>1</sup> serves as a bridge between past experience and future prospects—transforming lessons learned into forward-looking proposals aimed at deepening and expanding the social dimension of the European integration process.

Led by **SindNova and the Fondazione Di Vittorio**, the ASPE Group brought together experts with in-depth knowledge of the European Union, its social policies, and its framework for social dialogue. These experts were invited to reflect on the present and future roles of social partners in EU law-making. Their reflections were informed by the historical research conducted by the **European University Institute (EUI) and the Historical Archives of the European Union**, as well as by a renewed interpretation of key legislative acts in European labour law and of the contribution of social partners to their development.

The ASPE Group's core mission was to **translate historical insights into actionable proposals for the future**. Drawing on new perspectives from the past, the group examined the evolving role of social partners in the development of EU treaties and legislation, especially in light of recent policy shifts at both European and national levels.

Across five meetings, the ASPE Group:

- a. Analysed contemporary trajectories of industrial relations in EU Member States, with particular attention to institutional diversity and the convergence or divergence of national models;
- b. Identified potential avenues for strengthening the role of social partners in responding to the ongoing challenges confronting Europe;

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<sup>1</sup> Originally, the name of the Expert Group appearing in the SHAPE project description was Academic and Social Partners Expert Group. The new one *Academic and Social Practitioners Expert Group* better reflects the reality of the work done. This report has always been conceived as scientific contribution to a debate that is political sensitive. It never had the intention to gather political consensus or endorsement by any of the relevant stakeholders ahead its publication. The ASPE Group, thanks to a stakeholders' involvement process, culminated with the event in at the Jean Monnet House on 2nd September 2025, benefitted from reactions and feedback from mainstream organisations whose inputs were well considered without losing the aspirations of being visionary and innovative in its elaborations.

c. Outlined key elements for a renewed social dimension in the EU Treaties—one capable of addressing future socio-economic challenges and fostering cross-border solidarity in industrial relations.

The ASPE Group also explored strategic pathways for enhancing the role of social partners in addressing current and future transformations in the world of work. This process culminated in the drafting of a report and a set of proposals for revising the social provisions of the EU Treaties. These outputs were presented for multi-stakeholder discussion on **2 September 2025 in Paris**, and will subsequently be consolidated into a final report to be unveiled at the ShaPE Project's concluding conference on **9–10 December 2025**.

The **first two chapters of this report** are primarily analytical. They provide a scenario-setting framework aimed at building a shared understanding of the challenges the EU must navigate and the critical importance of social dialogue and labour-related law-making. They reflect the main outcomes of ASPE's discussions, with particular emphasis on the expanding scope of EU action, the implications of the future of work, the impact on the EU acquis and on the prerogatives of social partners, the anchoring of the EU legal order in fundamental principles and social rights.

**Chapters three and four** address two core tasks of the ASPE Group's work. **Chapter 3** examines recent developments in industrial relations systems across EU Member States to assess whether these systems are converging or becoming increasingly differentiated. It also evaluates whether the harmonisation promoted through European social dialogue is fostering upward convergence—namely, whether transformations in Europe's industrial relations systems reflect a progressive improvement in the working conditions of European workers. **Chapter 4** reviews the state of play of European social dialogue and advances proposals to strengthen social dialogue for social policy within the framework of the current Treaties.

In **Chapters 5 and 6**, the ASPE Group formulates proposals for revisiting the EU Treaties. It argues that the Treaties should reflect a renewed social contract grounded in peace, social justice, and decent work. While Treaty revision is not currently on the political agenda, it remains essential to advance ideas that may serve as a reference for those seeking to move more rapidly toward deeper political integration within the European Union, for the benefit of its citizens and all those who work within the EU.



## **Methodological note**

The EU social policies is developing in several directions guided by the Treaties' provisions in Part 3 (EU policies and internal actions).

Social policies may stem surely from Title X on "Social Policies". It includes a list of policy areas in which the EU can operate to coordinate, incentivise convergence of national systems or to legislate on a few matters listed in article 153 with a qualified majority or unanimity. In the same chapter, resides the provision that entitles social partners to be consulted and to negotiate the text of such legislative initiatives. This area is part of the single market development, as defined in article 3 TEU, par. X. It also entitles the EU to value collective bargaining and authorises the EU to promote equal treatment between men and women also via legislation.

Social policies can also be developed in the framework of the economic and social governance connected with the single currency. Chapter 1 (economic policy, articles 119-126 TFEU) of Title VIII (economic and monetary policy) must be read in connection with Title IX on Employment. In this regard the dominant article is 148 TFEU from which a role for social partners originates. The employment policy can be conceived as autonomous policy area but by now totally framed in the EU Semester (art.121 TFEU), which encompasses economic convergence and corrective frameworks (art. 126 TFEU) for those countries which depart from convergence trajectories. It includes article 122 TFEU that is the dominant legal basis to activate EU, in extraordinary and emergency situations, financial assistance between member state. By many, article 122 TFEU is considered the legal basis for austerity.

Social policies may also emerge from other areas of the Treaty, such as free movement of people and workers. Treaty provisions in Title IV (articles 45 to 48 TFEU), provided for a legal basis on which EU legislative and coordination activities, ensure equal treatment to workers and designed the most advanced right-based framework for people movement. A copious number of EUCJ have expanded the sphere of rights and freedoms of workers exercising their right to free movement.

Economic, territorial and social cohesion (Title XVII) should also be considered part of the EU Social dimension with its structural funds, the European Social Funds and the Partnership Principle. It is strictly connected with provisions in Part 6 concerning the

Union's own resource (art. 311 TFEU and the Multiannual Financial Framework (312 TFEU). The EU budget, at large, sets a capacity of the EU to achieve social relevant objectives. Beyond the successful experiences of ESF and Erasmus, we can bring the example of the SURE programme. The SURE programme helped a convergence in the use of short working time schemes to preserve employment in times of crisis.

A social policy is also emerging from the newborn industrial policy of the EU framed into the Open strategic autonomy framework. Initiatives such as Net-Zero Industry Act, Critical Raw Materials Act, Chips Act, Strategic Technologies for Europe Platform (recently extended with programmes for the EU defence, competitiveness and security) include social measures that origins from different legal basis but impact employment, management of labour transitions, protection of or derogation from legal standards, and taxonomy of social investments.

This report focuses on social policies of the EU (Title X) and Employment policies (Title IX) which have closer connection with social dialogue. It will thus explore the state of art concerning the social partners capacity to participate in law making processes and influence the policy making of the EU there where they are currently entitled to intervene. This does not exclude that interconnections with other policy areas are neglected. For instance, the economic, social and territorial cohesion policies of the EU, the more and more connect with the EU Semester of coordination of economic and social policies of the EU and therefore can be considered covered by this report. Reference will be made when relevant and to reinforce evidence and messages emerging from the work done during the SHAPE project.

Narrowing the investigation scope helps a deeper analysis of the topic at stake, of role of social dialogue, in the past, present and future, in law- and policy- making of the EU. The ambition of this report is to focus on that policy areas that are considered at the core of the EU social model and its conclusions can be, this is what we all hope, the genesis of an overall reconsideration of an integration model in which employment, jobs and working conditions find a new centrality in a sustainable economy and solid democracies.

## 1. TRENDS THAT ARE INFLUENCING THE EU, ITS COMPETENCES AND AREAS OF ACTIONS

**Geopolitical instability puts the EU at an historical turnaround which requires a reassessment of its competences.** Nothing new for those who have the responsibility to keep Europe united. Geopolitical tensions, or disruptive technological changes, were on the Council's agenda when preparing the Single European Act and the Maastricht Treaty as well. What appears as new today is the emerging and widespread hostility towards the EU integration project. This is new because since its inception, global partners associated the EU with stability, fairness and sustainability. The European integration process was rather raising aspirations for participation from peoples neighbouring the Union. In the new millennium, the Union incorporated new 12 states (many of them under the Soviets sphere of influence in the 20<sup>th</sup> century). Peace and a big-size market were a suitable political offer for attracting the favour of neighbours and loyalty of global partners. Social justice and decent work were an insurmountable external anchor to democracy witnessed by the EU's uncontested belief in the UN fundamental values and commitment with multilateral global institutions. All this is reflected in its genesis, the Maastricht Treaty.

New challenges are now shaking the overall institutional architecture of the EU. **A so manifest hostility towards the EU is an unexperienced external thread to which the EU is called upon to react. In the attempt to provide strength to its member states, the EU navigates amid institutional uncertainties and ambiguities in the mandate conferred.** Russian military expansion, terrorism, competitive (if not hostile) stance of the United States and the Global South (i.e. the BRICS): the EU is expected to be a security provider from a community of people who wants to be reassured on the capacity of its institutions to harness multiple threads.

In recent years, we are witnessing the **attempt of the EU leaders to shape a multifaceted security strategy** which is expanding the EU field of action with manifest impact on employment, workers' rights and industrial relations.

**First of all, the economic security.** The European Union shaped a full-fledged industrial policy culminated in the Competitive Compass<sup>2</sup> and the Clean Industrial Deal<sup>3</sup> and the most recent plans to develop defence industry and military equipment<sup>4</sup>. It struggles to gain an (open) strategic autonomy to face the breaking up of supply chains, to contend raw and critical materials with global competitors and stand out for strategic technologies. It also has significant social implications on jobs, the way we work and requires quick productive transitions and fast productivity improvements.

**The second dimension is territorial security.** With the new configuration of hybrid warfare, the Strategic Compass projected the Union towards a Defence Union without a defence treaty. Today, the security dimension does not concern the Rearm programme of the SAFE fund only. It has a lot to do with the new concept of hybrid conflicts, including dual-use technologies and the belligerent use of new media and social networks. Fighting misinformation requires the EU to act in policy areas that are strongly related to the exercise of fundamental rights, at the very core of our democracies, such as the public opinion formation, regularity of elections in EU Member states, or the opposition against hate speech and foreign interventions aimed at destabilizing social cohesion. The invasive but necessary action of the Union in areas such as freedom of expression, freedom of the press, and freedom of enterprise (see case T-125/22 RT France vs. Council) may potentially impact trade union prerogatives such as freedom to undertake collective actions, the exercise of trade union rights, and the right to be represented in the workplaces. And this is a new fact in the EU life.

**The third dimension is social security.** This dimension has matured in recent years, leaving the European Union with the necessity to ensure people's health (e.g., against pandemics), their income, energy independence, or protecting people against misinformation and interference in the democratic life of countries from external factors. Furthermore, social stability complements the security agenda, so that fighting poverty, minimum income, price control for energy and essential goods, and minimum

<sup>2</sup> European Commission, *The EU Competitiveness Outlook 2023 (The Competitiveness Compass)*, COM(2023) 168 final, Brussels, 16 March 2023.

<sup>3</sup> European Commission, *A Green Deal Industrial Plan for the Net-Zero Age*, COM(2023) 62 final, Brussels, 1 February 2023.

<sup>4</sup> European Commission, *European Defence Industrial Strategy*, COM(2024) 65 final, Brussels, 5 March 2024; and European Commission, *Proposal for a Regulation on establishing an instrument to strengthen the European defence industry through common procurement (EDIRPA)*, COM(2022) 349 final.

wages, to name but a few<sup>5</sup>, enter (or should be a component of) the security agenda of the EU. It changes the concept of common goods and enlarges the sphere of EU social policies which are not necessarily focused on protecting employment and labor and do not necessarily fall within the scope of social dialogue.

Here, **the ASPE group is not questioning the EU's need to act, but rather whether the continuous expansion of its scope of action undermines the Union's democratic legitimacy under the current institutional framework.**

It has been observed that many components of European society are calling for a new social contract. As we will see below, the previous attempt to establish such a contract between the EU and its citizens failed in 2003 with the rejection of the Constitutional Treaty.

Today, the call to reconstitute **a social contract may be understood either as a redesign of the balance of economic interests or as a reconsideration of the fundamental rights and protected interests within the EU legal order.** Alternatively, one may argue that the level of economic integration required by today's Union demands a new balance of interests, enshrined in updated fundamental rules, which could be better achieved through a modernisation of the EU's institutional framework.

The Draghi and Letta reports make it clear that, in the absence of Treaty revision, enhanced cooperation among "willing countries" remains the only feasible – though, as history shows, suboptimal – path forward.

Keeping aside the political contingency, in which the majority of political forces are reluctant to treaty change – but it may quickly change over time as history teaches us –, the ASPE Group investigated if the EU treaties provide a fair balance of interests in the way the EU operates in a situation of persistent emergency. It was noted that the last revision of the Treaties dates to 2007, emerging from the ashes of the failed attempt to give the European Union a proper Constitution. The Lisbon Treaty failed to expand EU's competences or improve efficiency of decision-making, for instance, extending use of qualified majority voting. It failed to adapt the European budget, and to reinforce the anchorage of the EU legal order to international fundamental rights. This has left the

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<sup>5</sup> Resolution of the European Economic and Social Committee, Contribution to the 2025 European Commission Work Programme, 26 November 2024.

EU barely equipped to handle subsequent crises, including the financial crisis, the COVID-19 pandemic, and ongoing geopolitical turmoil.

**After 2020, the positioning of the European Union (EU) in the global dynamics is marked by key declarations and strategic agendas, notably the Declarations of Versailles (2022) and Granada (October 2023),** and the European Council's Strategic Agenda 2024-2029. They have influenced the 5-year European Commission programme after the European elections in 2024. They are sign of a community of states that sees in common EU institutions a great potential but strives to offer to such institutions the democratic space they deserve. Indeed, the institutional shortcomings of the last treaty reform became evident immediately after the signing of the Lisbon Treaty. It was 2008, a global financial crisis posed the EU in front of a capital challenge which caused a progressive stretching of its competences to protect the monetary union and harness fiscal risks of member states. For a decade, the EU navigated an unexplored territory made of emergency measures and a *moratorium of social legislation*, with controversial results.

**Between 2008 and 2014, a set of policy interventions, including interferences in wage setting and collective bargaining functioning, abruptly broke the process leading to an upward convergence of working and living conditions of European workers and their families.** The emerging tensions trading off solidarity and national interests moved in favour of the second and led to punitive measures for member states which required financial assistance<sup>6</sup>. The establishment of the European Stability Mechanism (ESM) and European Central Bank's policies<sup>7</sup> marked a timid shift towards genuine mutual assistance amid member states. However, ECJ ruling in the Pringle case (Case C-370/12 Thomas Pringle v Government of Ireland), while legitimising the ESM, seems to confirm that the concept of solidarity in article 122 TFEU can be construed as temporary financial assistance and only when acting in emergency. Under the emergency equipment of the Treaty, mostly the space offered by Title VII (articles from

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<sup>6</sup> J-C. Juncker, A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change, speech addressing the European Parliament, Strasbourg, 15 July 2014. The Author stated: "If, in the future, further economic adjustment programmes were to be introduced (although I see no reason why this should be the case in the next few years), I would like to see a very rigorous social impact study carried out before any adjustment programme is implemented. I would like to know how adjustment programmes impact on people's lives." He added that "the Troika, as it works at present, lacks democratic substance," and warned that "the social market economy can only work if there is social dialogue." Available at: [https://ec.europa.eu/commission/presscorner/detail/en/SPEECH\\_14\\_567](https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_14_567)

<sup>7</sup> During Mario Draghi's Presidency.

120 to 126 TFEU), several countries were imposed draconian reforms that are today known under the self-explicative concept of "austerity"<sup>8</sup>.

**The downward effects on conditions of living of European people were certified by several analysis and data.** In 2015, the new established European Commission, led by President Juncker, claimed for a political role to be played in the economic governance of the Euro. The proclamation of the European Pillar of Social Rights relaunched the EU legislative initiative in the social area as a piece of a new phase of the EU economic and social policy which included the flexibilization of the Stability and Growth Pact. This political shift probably paved the way to future initiatives like the Next Generation EU (NGEU), SURE, and European public debt for investments, when in the realm of the pandemic crisis, it nudged the EU to adopt solutions closer to the ones that would have adopted a federalist state, overcoming resistances that some opposed in the name of presumptive defence of national interests.

The articulated response to the covid crisis was the decision of leaders who dared to move the EU further in a new territory. **In 2025, we are in a new political phase in which raising nationalisms risk to let the EU stuck mid-way from desires to restore the past and the necessity to re-design its future.** In the fight between past and future resides the need to place the social dimension of the Eu in a new institutional balance.

**Still the current market-centred integration model tends to relegate social objectives to the background of EU priorities.** This is one reason why social partners continue to struggle to find meaningful involvement in recent programs that support

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<sup>8</sup> Within the scientific production analysing structural reforms on wages, collective bargaining and social protection in the years between 2008 and 2015, often imposed through the MOU backing the financial assistance or through the European Semester of coordination of economic and social policies of the EU, see: Armingeon, K., and Baccaro, L., *Political Economy of the Sovereign Debt Crisis: The Limits of Internal Devaluation*, Industrial Law Journal, vol. 44, no. 2 (2015): 254–275; Clauwaert, S., and Schömann, I., *The Crisis and National Labour Law Reforms: A Mapping Exercise*, ETUI Working Paper 2012.04; Schulten, T., and Müller, T., *European Economic Governance and its Impact on Wages and Collective Bargaining*, in Social Developments in the EU 2013, ETUI, Brussels, 2014.



EU reform and investment policies, even when these programs clearly impact the way we work, produce, and consume<sup>9</sup>.

In general, the entire EU architecture pinpointed on the internal market with a single currency condemns the social dimension of the EU to perpetual stop-and-goes. Fast accelerations are followed by prolonged stagnations (the last one experienced from 2008 to 2015). **The point remains that current treaties seem unable to strike the right balance between economic, social, sustainability and fiscal objectives in a world going through traumatic changes.**

We are getting used to decide in emergency even if we spend time and energies to explain that the succession of crisis is the new normal<sup>10</sup>. This is probably due to political pragmatism which levers on current treaties to confer the EU the capacity to exercise the competences are needed today. This lever is made of exceptional circumstances requiring emergency measures. This confines the EU action into an intergovernmental process also there were a legislative action (raising standards or getting more

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<sup>9</sup> For instance, the *SURE* (Support to mitigate Unemployment Risks in an Emergency) instrument significantly contributed to harmonising national legislation on short-time work schemes aimed at protecting employment during crises. Nevertheless, financial considerations often prevailed over attempts to align employment preservation with other socially relevant objectives—such as improving youth access to the labour market or addressing gender-based disparities—as envisaged by the *European Pillar of Social Rights (EPSR)*. Empirical evidence from Eurofound and the European Trade Union Confederation (ETUC) indicates that social partner involvement in the implementation of the *Recovery and Resilience Facility (RRF)* was minimal or, in some cases, entirely bypassed. Furthermore, when submitting their *Mid-Term Fiscal Structural Plans*—as required under the 2024 reform of the *Stability and Growth Pact*—all Member States invoked the derogation clause contained in Regulation (EU) 2024/1263 of the European Parliament and of the Council of 29 April 2024 on the preventive arm of the economic governance framework, which exempts them from the obligation to involve social partners during the submission of their initial plans. See: European Commission, *SURE – Support to mitigate Unemployment Risks in an Emergency*, COM(2020) 139 final, Brussels, 2 April 2020; Eurofound, *Social Partners and the Recovery and Resilience Facility*, Publications Office of the European Union, Luxembourg, 2023; ETUC, *Trade Union Involvement in the Implementation of the Recovery and Resilience Facility*, Brussels, 2023; Regulation (EU) 2024/1263 of 29 April 2024, *on the preventive arm of the economic governance framework*, OJ L, 2024; *European Pillar of Social Rights*, Proclaimed by the European Parliament, the Council and the Commission, Gothenburg, 17 November 2017.

<sup>10</sup> The EU engaged in a Strategic Foresight Report aimed at outlining a new pattern of governance for emerging global phenomena, including new economic metrics and monitoring methods. However, these efforts did not materialise into innovative ideas to modernise the EU's modes of operation, decision-making, and democratic legitimacy; See: European Commission, 2023 Strategic Foresight Report: Sustainability and Wellbeing at the Heart of Europe's Open Strategic Autonomy, COM(2023) 342 final, Brussels, 6 July 2023.



harmonisation) would be more effective. The dichotomy between ruling and governing responses to adverse situations is served.

**That is also why, in this report, a critic to article 122 TFEU recurs.** When facing emergencies, the European common response often requires corrective measures, which need to be extraordinary and temporary if they want to abide by the current EU regulatory and institutional framework. The concept of solidarity in article 122 TFEU is limited<sup>11</sup>. It may range from the distributional keys under the European Recovery Instrument and the instrument to Support to mitigate Unemployment Risks in an Emergency (SURE) to the less solidaristic activation of the escape clauses under the Stability and Growth Pact. The tension between market and the social abilities inhibits the smooth deployment of other EU policies such as social or sustainability policies leaving **the EU's (and European social partners) struggling with the unresolved dichotomy between Articles 148 (coordination of national employment policies) and 153 TFEU (legislation for minimum standards and approximation of systems).**

**What appear clear is that the balance of interest in the EU framework passes through a different way to finance policies for investments, including social investment and enabling reforms, combining a more effective use of EU legislation.** Looking at our recent past, the SURE, the RRF, the STEP and the (upcoming) SAFE experiences bring consensus to those who advocate the setting up of a permanent EU fiscal capacity to fund investments. It is not a case that there is recurrent call for European public goods or common goods referring to panEuropean material and immaterial infrastructures. Increasing EU own resources and leveraging on the EU capacity to issue common debt are seen as vehicles for unity, cohesion and solidarity among EU peoples but to get there a revision of the EU Treaties remains, however, necessary and urgent. If not the different functions of the EU will remain stuck in the rigid clusters of competences designed by EU Treaties designed decades ago. Also, social policies risk being trapped in rigid subsidiarity cells.

<sup>11</sup> Commission President **Ursula von der Leyen** acknowledged these institutional limits when presenting the proposal for the *Multiannual Financial Framework (MFF) 2028–2034*. She referred to the possibility of raising EU-level debt to address financial pressures on Member States' public finances—presenting it as a fairer alternative to the use of Article 122 TFEU; See: European Commission, *EU budget 2028-2034 for a stronger Europe*, press release, Brussels, 16 July 2025. Available at: [https://commission.europa.eu/news-and-media/news/eu-budget-2028-2034-stronger-europe-2025-07-16\\_en](https://commission.europa.eu/news-and-media/news/eu-budget-2028-2034-stronger-europe-2025-07-16_en).

In this complex scenario, we are all confronted with a primordial question: should national policies merely be coordinated, or should a full-fledged EU policy for employment and social progress be implemented? **This issue is not only about economics or fiscal discipline; it concerns the EU's capacity to legislate in the overall interest of its citizens when necessary and desirable, as well as the role of social partners in that process.** Since 2017, the European Pillar of Social Rights and its Action Plan have aimed to integrate fiscal, economic, and social policies within the single market, supported by new minimum standards established through EU Directives. Yet, the EU's aspiration to address social challenges has increasingly been channelled through the European Semester—a mechanism for coordinating economic and social policy that remains largely intergovernmental in nature. This approach does not fully reflect the vision of the Union's founding architects. As a result, revitalising European social dialogue under new terms that better respond to the challenges faced by European workers and firms proves difficult<sup>12</sup>.

**SHAPE's historical research explains the significance enshrined in the Maastricht Agreement of 1991, which integrated social dialogue into EU social policy, granting social partners quasi-legislative authority as democratic support to a revamped capacity of the EU to legislate in the social field and be stronger in the upward convergence of working and living conditions of all Europeans.** Social dialogue prerogatives were confirmed by the Court of First Instance in the *Ueapme v. Council* ruling in 1998. The Maastricht Social Policy Agreement's initial success led to directives on parental leave, part-time work, and fixed-term work, all born from agreements between social partners. However, subsequent years saw a shift towards the open method of coordination, with the EU's role focusing on policy guidelines rather than direct legislative action. Over the years, this method evolved into the European Semester for coordinating member states' economic, fiscal, and social policies. Entering the 21st century, social dialogue took on a more autonomous nature, resulting in framework agreements to be implemented through national social partners' agreements. While EU legislation in the social field lived a new momentum, the tale of austerity years marked a relevant turnaround for the current settings of European social dialogue.

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<sup>12</sup> The SHAPE project dedicated a specific work package to these aspects. See *Maarten Keune, -making by European unions and employers: a vision unfulfilled, AIAS-HSI, University of Amsterdam (not published yet)*

In recent times, the interinstitutional declaration in La Hulpe in April 2024 further underscores the commitment to strengthening the social dimension in the upcoming legislature, including the appointment of a social dialogue officer in all Commission DGs. However, the 1992 architecture of social dialogue in the EU does not produce material results in law-making while social partners seem to find new space of action when orientating and informing the policymaking in close cooperation with the European Commission and the European Parliament. This is sign of vitality even if in evolving way to act. Far from being at a death end, the European social dialogue must find a new centrality with new tools and prerogatives as part of a new centrality of social objectives. Better if enshrined in the values and mission of a modernised EU institutional architecture in which social, economic and environmental strike a new constitutional balance.

**As conclusions of this chapter, it can be said that the European Union's success story demands continued efforts to deepen the economic and political integration. Social dialogue offered a substantial contribution to it, but the EU institutional frameworks show imbalances and obsolescence.** Repeated economic shocks, the pandemic, and growing geopolitical tensions have pushed the European Union to operate beyond its traditional limits and to assume unprecedented political responsibilities. From the Defence Union to the pursuit of Open Strategic Autonomy, the EU is engaged in an unprecedented effort to mobilise public and private resources to finance a full-fledged industrial programme whose effects on labour markets and employment conditions are both evident and predictable. The next legislative term must address the Union's institutional architecture, decision-making processes, and the system of checks and balances required for a more mature political union. Achieving this would help secure the EU's long-term prosperity and foster peaceful coexistence among its peoples and beyond its borders. European social dialogue, meanwhile, has continued to evolve, facing multiple challenges and transformations. Although its legislative impact has weakened, renewed efforts and commitments demonstrate a continuing dedication to strengthening the EU's social dimension, adapting to ongoing transitions and promoting inclusive development across Member States.

The expansion of the EU's scope of action and competences, however, is not the only challenge facing the Union's social dimension and dialogue. As the EU seeks a new position within the changing global landscape, the world of work itself is undergoing

rapid transformation, adding a further layer of complexity to EU social policy and social dialogue.

## 2. NEW PATTERNS OF THE EU SOCIAL MODEL IN A CHANGING WORLD OF WORK. A NEW SOCIAL CONTRACT

The Shape project offers **a useful bridge from past and future** to figure out what the features of social dialogue should be and what social dialogue should do in future and how. The European Union's labour market is undergoing profound changes driven by technological advancements, demographic shifts, and environmental imperatives: this is a widely used statement.

The ASPE group used the academic and research capacities to compare with most recent publications of EU, ILO, World Bank and UN to see where common understanding exists about where labour transitions will be felt stronger and deeper and how upcoming challenges of future of work will be taken up by the EU (because only option or for greater efficiency) and how this will impact social dialogue and the role of social partners in law- and policymaking.

The three key transitions are confirmed for the transformational power they exercise on the world of work. Technological progress is expected to displace jobs while creating demand for highly skilled positions in areas like **AI and digitalization**. For instance, AI could impact up to 82% of clerical jobs, posing risks to millions of workers. It is widely agreed that such a technological upheaval demands substantial investment, skills creation, and reskilling, particularly in countries with less capacity to invest, because of public finance constraints or limited private sector financial capacities<sup>13</sup>.

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<sup>13</sup> For further information about the ASPE group's conclusions in this chapter, see: Mind the Divide, Shaping a Global Perspective on the Future of Work, UN – ILO, 2024. Digitalisation is profoundly transforming the world of work. Artificial intelligence alone is expected to affect around 82 per cent of clerical support workers – including those engaged in administrative tasks, data entry, filing and information management, customer service, and bookkeeping – with approximately one in four at risk of being replaced by AI-based systems. Overall, some 100 million workers worldwide are projected to be affected to varying degrees. The extent and nature of this impact will depend on the pace of technological diffusion, which is itself closely tied to investment capacity. Countries with greater ability to mobilise public and private investment enjoy a clear competitive advantage. For instance, an estimated 300 billion USD are invested each year in enhancing computing capacity directly linked to the deployment of new technologies, an investment that will significantly shape both the quantity and quality of future employment.

This transformation will also deeply affect labour mobility – which may or may not involve the physical movement of workers and will redefine the interconnections between labour markets at the global level.

Similarly, the **green transition** will reshape the labour market, with the emerging risk that new “green” jobs may replace unionised, protected jobs in traditional industries, with less protected jobs. Beyond the evidence brought on the expansion of this phenomenon, the group wanted to stress that the green is creating both opportunities and challenges to the future of labour law and social dialogue in the EU.

**Demographic shifts** further compound these issues. Aging populations, labour shortages, and increased demand for elderly care will strain the EU’s social and labour systems. Demographic dynamics are closely linked to migration flows, which are increasingly driven by climate and geopolitical factors rather than by purely economic considerations. These flows bring millions of new entrants into the EU labour market every year. The growing availability of cheap or insufficiently protected labour in the global market, combined with the weakening of multilateral governance, poses a significant challenge to the European social model if not properly managed. Migration and mobility policies must therefore be better aligned with labour market needs to ensure that Europe remains both competitive and socially cohesive. Youth employment and cross-border mobility, particularly in the context of digital and technological transitions, will play a central role in addressing future labour challenges. For the new generation of workers, the EU territory represents the natural horizon of life and work. Yet intra-EU mobility – currently involving about 20 million people out of a total population of roughly 450 million – remains less developed than in comparable ecosystems, such as the United States. Strengthening cross-border social infrastructures, including the recognition of skills, portability of rights, and EU-level pension instruments, will likely be among the key demands of younger workers seeking to maximise their opportunities across the Union.

Some takeaways from the ASPE Group:

- Technological progress will change the labour markets and increase cross-border spill-over effects. The digital transition (especially the one driven by AI) a unique opportunity to revitalise social dialogue and collective bargaining.
- The green transformation will deeply impact the labour market<sup>14</sup>. New green jobs risk to worse than those they are replacing.

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<sup>14</sup> About 20% of the workforce is employed in green economy jobs, but the employment outlook in this sector is not always optimistic, i.e., jobs that are likely to be positively affected by the transition to net zero. According to the OECD analysis, green economy jobs are a heterogeneous group of jobs: new green jobs are likely to be worse than the ones they are replacing. These jobs need to be made more attractive.

- Demography is also impacting the way we will regulate work and labour markets in the EU vs. national contexts.
- The 5th freedom appearing in the Letta Report on the Internal market projects a new era of free movement rights.

Along these challenges that are widely recognised as driver of change of the future world of work, the ASPE is drawing attention to additional factors that more intimately relates to societal developments.

**As society evolves also civil rights relevant for workplace fairness evolve, especially along with the ban of any form of discrimination.** As referred to in the proposal for a treaty revision adopted by the EU Parliament in 2023, the antidiscrimination acquis results in need of modernization. As society is ready to **move beyond binary discrimination models, EU will be required to adopt legislative policies that move fight discrimination adopting a more fluid, gender-responsive framework.** This could reshape the EU's non-discrimination agenda to address societal changes more effectively. The anti-discrimination law seems today a promising legislative area to improve rights of people, also at work, and examples of it is the attention dedicated to empowerment of women, maternity and paternity leaves, work-life balance, combatting violence and harassment of work and protection of all types of vulnerability, including people with disabilities. **The future of work will be strongly influenced by the capacity of transferring new sentiments of society in the way we organise and regulate working activities and the workplace.**

We should not let that the development of our society marginalises the relevance of quality of work to provide answer to these emerging needs. The EU's social policy already reflects a broad shift from labour-specific issues to societal challenges such as skills development, affordable housing, consumer protection, ageing population and energy poverty. However, this cultural shift risks to sideline on the EU agenda the critical transformations of the world of work, particularly with the rise of automation, artificial intelligence (AI), and the green transition. Digitalisation, decarbonisation and sustainability are widely documented drivers of change in the world of work.

The ASPE group grounded its elaborations in the new patterns of the future of work to identify the legislative tasks of the EU in the years to come. It has a lot to do with "what" and "how" the EU will be asked to do to modernise its acquis in the labour field. The task of the lawmakers is to make the best use of the current legislative toolkit while policy and legislative techniques may be innovated following proposals emerging from Draghi's and Letta's reports. They may likely impact social dialogue's structures and functions. Few examples were raised.

**First, Letta's envisages a larger use of regulation instead of directives.** Unlike directives, regulations do not allow divergent national laws, suggesting a more unified but possibly restrictive approach to social policy implementation. The EU is already making larger use of regulations which impact social matters for instance to implement the agenda for open strategic autonomy.

**Second, a Multispeed Europe in Social Policy is what Draghi's Report proposes as "concentric circles" approach to EU integration.** As we learned in occasion of the Maastricht Treaty and its Social Policy Protocol, varying levels of participation across countries, may potentially influence the structure of social dialogue. Still, multispeed integration may be needed but with caveats emerging concerning the fragmentation it may cause to the EU social model.

**Third, from labour-centred policies to social without work.** This trend is exemplified by the dispute started in the Brussels' corridors on the name of the portfolio of the Commissioner for social affairs. In the legislative context, competitiveness is associated to productivity and, surprisingly, productivity is associated to high living conditions of people. This is unusual because productivity is strictly connected to performance at work and should rather be matched with improved working conditions. Beneath the surface of an apparently semantic game, lurks the risk of a political course which dramatically neglects the huge transformation of the world of work so delaying the adaptation and modernisation of labour law, its compliance, enforcement and modernisation.

These elements let us say that there is a bogus in the capacity of current Treaties to strike a balance between economic, social and sustainability aspects of the EU integration. **So, the future of work does not call for a mere updating of the EU social acquis. It is something deeper that implies a revision of the entire integration and development model of the EU. From different sides, the message is that the "Future of work" may require a new social contract.**

The Strategic Foresight Report 2003, of the European Commission calls for a new social contract<sup>15</sup>, hinting to the need to rethink the way we reconcile the most urgent economic, technological, environmental and societal challenges. It is not far from the renewed partnership between member states (referring to EU governance) that Draghi

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<sup>15</sup> European Commission, *2023 Strategic Foresight Report: Sustainability and Well-being at the Heart of Europe's Open Strategic Autonomy*, COM(2023) 342 final, Brussels, 6 July 2023, p. 4 (which calls for "a new European social contract" amongst other orientations); available at:

[https://commission.europa.eu/strategy-and-policy/strategic-foresight/2023-strategic-foresight-report\\_en](https://commission.europa.eu/strategy-and-policy/strategic-foresight/2023-strategic-foresight-report_en)



envisages in its Report on the Future of European Competitiveness<sup>16</sup>. The Versailles Declaration is evocative of a European sovereignty that preludes to an upgrade of the EU integration process.

A new social contract is also a demand of number of intuitional, social and academic players in view of the Second World Summit for Social Development<sup>17</sup>. **The UN Agenda 2030 stays central because the future of work need attention to gender equality, sustainability, the adaptation of the labour market to combat climate change, the employment status of digital platform workers, and the proper management of new technologies in the sphere of labour relations.**

At the Porto's Social Summit in 2021, the European Social Partners presented a joint text which explores the concept of "beyond GDP", building on the UN2030 Agenda. A text that was then taken by the informal European Council in its conclusions at the fringes of the European Social Summit. Once again, the Agenda 2030 is source of inspiration to address current and future challenges stemming from the future of work.

**The ASPE Group considers that work will remain central in our future society. Social dialogue is a way to keep the labour market and employment relationship at the centre of the social policies of the EU.** In this regard, the future action of the EU should reassure that social dialogue can cover all aspects of the EU action in the economic and social field. So well beyond the co-legislating function as in article 153 and 154 of the TFEU, social dialogue may be able to orientate the EU policy making around competition, in the industrial strategy, cohesion policies and speeding up work transition stemming from environmental policies and uptake of digital technologies. It must find new dynamics in the implementation of the reformed stability and growth pact giving to expand the legal basis of article 148 TFEU. These needs are not unknown to the EU policy maker. Collective bargaining needs an EU cross-border dimension with

<sup>16</sup> Mario Draghi, *The Future of European Competitiveness: A Competitiveness Strategy for Europe*, commissioned by the European Commission, 9 September 2024; available at:

[https://commission.europa.eu/document/download/97e481fd-2dc3-412d-be4c-f152a8232961\\_en](https://commission.europa.eu/document/download/97e481fd-2dc3-412d-be4c-f152a8232961_en)

<sup>17</sup> The *Madrid Declaration* of 14 November 2024, adopted in the framework of the preparatory process for the *Second World Summit for Social Development*, calls for a renewed global social contract centred on decent work and social justice. The Declaration vividly depicts the transformation of the world of work, stating that it "has undergone a process of radical transformation, with profound changes set within a framework of persistent inequalities, which impact the nature and future of work and the standing dignity of workers." It further emphasises that "labour standards [...] require continual updating if they are to sustain decent work."

See: *Madrid Declaration. Towards a Global Charter for Labour Rights*, Madrid, 14 November 2024. available at:

<https://www.lamoncloa.gob.es/lang/en/gobierno/news/Paginas/2024/20241114-global-bill-of-rights.aspx>

a revamped capacity to impose labour standards in the EU single market, promote and protect rights outside the single market and better contribute to the upward convergence of working and living conditions in the EU.

As a conclusion, the ASPE Group has identified those drivers that more directly address the urgent challenges with stronger impact on the social agenda:

- Search for higher productivity in innovation and digitalisation
- Reconfiguring its social infrastructures to demographic change
- Completing the green transition

Enforcing the security and defence agenda, the future regulatory framework must address these emerging dynamics by focusing on key areas: automation and AI, remote work, platform labour, and the integration of social rights across borders. Specific initiatives, such as regulating platform work, ensuring portability of rights, and promoting collective bargaining, will be vital in shaping a fair and inclusive labour market. In this context, the role of social dialogue will be critical in balancing national interests with EU-wide goals, ensuring fairness and social justice.

### 3. CONVERGENCE AND DIVERGENCE BETWEEN NATIONAL SYSTEMS<sup>18</sup>

#### 3.1 Industrial relations, between convergence and divergence: a brief literature review

One of the elements which qualify industrial relations, as a branch of studies, is for certain the key role played by the method of comparison. Today, most of the research conducted in this field is of a comparative and international character, as the aim is to catch and understand differences and similarities in coping with similar and epochal changes. We know that **the method of comparison in legal and social sciences studies has a double purpose: a) descriptive, to understand – through learning from others – how other systems work; b) normative, so to suggest some directions in coping with changes and challenges, recommending specific policies towards which they should evolve and improve**<sup>19</sup>. The warning, already highlighted by Kahn-Freund (1974)<sup>20</sup>, in his quite famous *"On Uses and Misuses of Comparative Law"*, are represented today by:

- 1) the so-called "path dependency", which is very difficult, in this branch, to avoid or deviate through very difficult institutional transplants;
- 2) the risk of an instrumental use of comparison, in a "cherry picking" fashion, by just selecting what is functional to one's views, in terms of the analysis and preferred policies;
- 3) national reactions to what is perceived as hegemonic intrusions from the outside (like in the case of the Nordic aversion of EU interventionism, through whatever forms of hard law, in the field of industrial relations).

<sup>18</sup> Authors of this chapter: Salvo Leonardi (Fondazione Di Vittorio) and Roberto Pedersini (Università Statale di Milano)

<sup>19</sup> Tarello G., *Positive Law. From the Viewpoint of Italian Legal Culture*, in "Associazione Italiana di Diritto Comparato, Italia National Reports to the Xth International Congress of Comparative Law", Budapest; Milan, Giuffrè, 1978.

<sup>20</sup> Khan Freund O. (1974), *On Uses and Misuses of Comparative Law*, in "The Modern Law Review", vol. 37, no. 1.

The possibility of a convergence of national industrial relations systems – for instance in the shadow of the EU social and labour law – is an old issue, very much debated for the last 40 years, in the context of globalization and of the peculiar European integration. **The analytical debates have been polarized in two main different camps: varieties of capitalism (VoC) vs. converging trajectories.**

In support of **the thesis of the “varieties of capitalism” (VoC)**<sup>21</sup>, we have several very plausible arguments and empirical evidence, both from historical and ongoing trends. Looking at the literature, we can just mention a few key points. First and foremost, the importance of the country-specific historical background and institutional framework<sup>22</sup>. From this perspective, each industrial relations system is a sub-system of the broader political systems, but also of the model of capitalism, of their features and trajectories in terms of mode of accumulation, place in the international value chain and labour market composition<sup>23</sup>.

On the other side, also **the theories which point to convergence across national systems** have proposed a few convincing arguments and analytical insights, among international studies of industrial relations, almost since its birth, as a branch of the academic studies. Starting with the long lasting and enduring evolution of union rights, from prohibition to tolerance, to recognition, until – in some cases – incorporation. For some schools, like the institutionalist or the neo-Marxist, regimes of accumulation tend to convergence towards the hegemonic model of regulation: from Fordism to post-Fordism, from industrial pluralism<sup>24</sup>, to neo-corporatism<sup>25</sup>, and then to neo-liberalism<sup>26</sup>. From this perspective, it is certainly true that “institutions” and national historic backgrounds matter, but – this is the key assumption – they are also

<sup>21</sup> Hall P.A. and Soskice D. (2001), *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*, Oxford University Press.

<sup>22</sup> Albert M., *Capitalism Against Capitalism*, Whurr Publishers, 1991; Crouch, C., *Industrial Relations and European State Traditions*, Oxford: Oxford University Press. 1994 ; Ebbinaghaus B. and Visser J., *The Societies in Europe. Trade Unions in Western Europe since 1954*, Macmillan, 2000; Traxler, 2001; Hyman R. (2001), *Understanding European Trade Unionism: Between Market, Class and Society*. London: Sage.

<sup>23</sup> Locke R. and Thelen K., *Apples and oranges revisited: contextualized comparisons and the study of comparative labor politics*, in “Politics & Society”, vol. 23(3), 1995; Hall P.A. and Soskice D. (2001), *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*, Oxford University Press.

<sup>24</sup> Kerr C., Dunlop J. T., Harbison F. and Myers C. A., *Industrialism and Industrial Man*. Cambridge: Harvard University Press, 1960,

<sup>25</sup> Schmitter Ph.C., *Still the Century of Corporatism?*, in “The Review of Politics”, vol. 36, no. 1, pp. 85-131., 1974.

<sup>26</sup> Baccaro L., Howell C. (2017), *Trajectories of Neoliberal Transformation: European Industrial Relations Since the 1970s*, Cambridge: Cambridge University Press.

“malleable”, or “plastic”. So that, we better talk of “institutional conversion”, rather than “institutional demise”<sup>27</sup>.

Both these two main interpretations of the trajectories of industrial relations provide significant insights. Beyond continuity and path dependence, variation in IRs patterns is increasing within countries, for instance across sectors<sup>28</sup>, but there is much commonality across countries in that variation. **Institutions matter indeed, but they also evolve in a direction which Katz and Derbyshire have called “Converging divergences”<sup>29</sup>**. What we have been observing is that the boundaries between the clusters have become more permeable and blurred during the past two decades. Although the differences within the continental cluster (Austria, Belgium, Germany, Luxembourg and the Netherlands) have increased, the similarities in this group remain relevant. There are now more differences than commonalities between the countries within the Central and Eastern and the Southern industrial relations clusters (see, for instance, the big but also long-lasting differences between France and Italy, regarding the very diverse degree of institutionalization and voluntarism). The criticism of such approach is that a unitary picture of national system fails to detect internal differences; across countries of the same cluster, but also within each country, with dualization by regions and by sectors<sup>30</sup>.

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<sup>27</sup> “Internationalization imposes new agendas everywhere, even where on the surface they appear to remain unchanged”; Streeck W., *Institutional change and globalization*, in “Socio-Economic Review”, Volume 5, Issue 3/2007.

<sup>28</sup> Bechter B., Brandl B., Meardi G. (2012), *Sectors or countries? Typologies and levels of analysis in comparative industrial relations*, in “European Journal of Industrial Relations”, Vol. 18, Issue 3.

<sup>29</sup> Katz H.C. and Darbishire O. (2000), *Converging Divergences. Worldwide Changes in Employment Systems*, Ithaca, N.Y., Cornell University.

<sup>30</sup> Bechter B., Brandl B., Meardi G. (2012), *Sectors or countries? Typologies and levels of analysis in comparative industrial relations*, in “European Journal of Industrial Relations”, Vol. 18, Issue 3.

### 3.2 The European national systems of industrial relations in comparative perspective

**European national industrial relations systems show peculiar and distinctive features, which are rooted in their historical origins, often linked to the compromises emerged between employers and trade unions in the consolidation stages of industrialisation between 1800s and 1900s, sometimes with the active involvement of governments.** The number, nature and attitudes of their actors vary considerably across countries and so do the institutions which enable and often support collective representation and bargaining, from the workplace to the cross-industry levels. The role of the state and legislation is also quite variable and can range from little more than the simple recognition of the freedom of association and collective bargaining to a complex legal framework that sanctions representativeness and makes collective agreements generally binding. With a view to avoid the trap of singularities, that is considering each national system as a peculiar arrangement which cannot be reduced to any common framework and remains incommensurable, several typologies have been developed, both on individual features of the industrial relations systems (like the type of representation, the structure of collective bargaining, or the relationship between the different levels) and on their overall configuration.

Here, we are not interested to assess the relative utility and solidity of such typologies. Our objective is rather understanding whether the actions and initiatives of the European Union have exerted some degree of pressure over national systems, so that they now show some similarities or share certain common features, which might be regarded as the core elements of the industrial relations side of a possible “European social model”. Most of the literature in comparative employment relations over the past three decades has underlined **a progressive erosion and weakening of industrial relations in the western market democracies**, which had provided the context for their remarkable achievements in representing and protecting labour during the last century. Does the European Union make any difference in this respect? Moreover, since the EU is committed to support the role of industrial relations, to what extent this commitment is being effectively implemented and what are the factors that can help achieve this objective?

Our questions are essentially time-sensitive and requires examining the EU initiatives in the field of industrial relations, and the transformation of national systems through

time, as we intend to analyse in this section. This is not an easy task, and it involves, as we will see shortly, a great deal of simplification. Yet, it can be useful to quickly consider the institutional variety of the European national industrial relations systems. **The main characters of country-level industrial relations are rooted both in national regulatory frameworks and practices, and they therefore show significant path dependency.** These refer, for instance, to the contrast that we can find between countries with a strong role of state regulations, such as France and Belgium, and countries with a voluntaristic tradition, like the Nordic countries and Italy. Or if we take in consideration the representation channels in workplaces and we distinguish between dual channel systems (Germany and France, among others) and single channel systems (Sweden, Denmark and Italy, for instance). Another key feature is the combination of the prevalent level of bargaining and the presence of coordination and the nature of such coordination. Here we can find decentralised and non-coordinated systems, as it happens in many of Central and Eastern European countries, and more centralised and coordinated systems, as the case of Belgium, Austria, Sweden and Denmark.

If we look at these features, even if we take a rather long-term perspective and we look back at the past 30 years, it is possible to detect only small and marginal changes in most of the country cases. Changes in these dimensions usually amount to a “regime transformation” and take place at specific junctures, either as the effect of a political turnaround or crisis, or due to significant disruptions in the national interest representation landscape. In the experience of the European countries, we can find a handful of examples of similar turnarounds, which include, for instance, the decentralisation and disorganisation of the collective bargaining system in UK in the 1980s, which followed the victory of the conservative party in 1979 and the entry into office of Margaret Thatcher as Prime Minister; the disruption of the collective bargaining structure entailed by the Memorandum of Understanding signed by the Greek government and the Troika (EC, BCE and IMF) to face the sovereign debt crisis in the early 2010s; Portugal faced a similar fate, but the disruption was possibly less severe and more transient; and the reform of the collective bargaining system introduced by the Romanian government in 2011, which terminated the possibility to conclude national collective agreements (a provision later corrected by a new piece of legislation in 2022).

**Table 1. Trade union density (TUD) and Collective bargaining coverage (CBC) in the EU, Norway and UK. Levels and changes 2019-2000**

Country	TUD 2019 (%)	TUD 2019/2000 (change in percentage points)	TUD 2010/2000 (change in percentage points)	TUD 2019/2010 (change in percentage points)	CBC 2019 (%)	CBC 2019/2000 (change in percentage points)
<b>Austria</b>	26,3	-10,6	-8,0	-2,6	98,0	0,0
<b>Belgium</b>	49,1	-7,5	-3,6	-3,9	96,0	0,0
<b>Czechia</b>	11,4	-15,8	-11,1	-4,7	34,7	-7,7
<b>Denmark</b>	67,0	-7,5	-6,4	-1,1	82,0	-3,1
<b>Estonia</b>	6,0	-8,0	-5,8	-2,2	18,6	-13,4
<b>Finland</b>	58,8	-15,4	-2,8	-12,6	88,8	3,8
<b>France</b>	10,8	0,0	0,0	0,0	98,0	0,3
<b>Germany</b>	16,3	-8,3	-5,7	-2,6	54,0	-13,8
<b>Greece</b>	19,0	-5,9	-2,7	-3,2	14,2	-85,8
<b>Hungary</b>	8,3	-15,5	-11,3	-4,2	21,8	-16,6
<b>Ireland</b>	25,1	-9,7	-4,3	-5,4	34,0	-10,2
<b>Italy</b>	32,5	-2,3	0,5	-2,8	100,0	0,0
<b>Latvia</b>	11,6	-9,4	-5,9	-3,5	27,1	-7,1
<b>Lithuania</b>	7,4	-11,1	-8,4	-2,7	14,2	14,1
<b>Luxembourg</b>	28,2	-15,8	-7,9	-7,9	56,9	-3,1
<b>Netherlands</b>	15,4	-6,9	-2,8	-4,1	75,6	-6,1
<b>Poland</b>	13,4	-10,1	-6,1	-4,0	13,4	-11,6
<b>Portugal</b>	15,3	-5,2	-0,9	-4,3	77,4	-4,2



<b>Slovak Republic</b>	11,3	-22,9	-17,8	-5,1	24,4	-27,6
<b>Slovenia</b>	23,8	-20,4	-11,6	-8,8	78,6	-21,4
<b>Spain</b>	12,5	-5,0	0,7	-5,7	80,1	-4,7
<b>Sweden</b>	65,2	-15,8	-12,8	-3,0	88,0	0,3
<b>Norway</b>	50,4	-3,2	-3,1	-0,1	69,0	-5,0
<b>United Kingdom</b>	23,5	-6,3	-3,2	-3,1	26,9	-9,5
<b>OECD</b>	Estimate 15,8	-5,1	-3,1	-2,0	Estimate 32,1	-5,3
<b>Average EU</b>	24,3	-10,4	-6,1	-4,3	58,0	-9,9

Source: OECD-AIAS Database Version 2.0 (September 2025)

Despite the relative stability of institutions illustrated above and the tendency of typologies to disguise change, we can still try to identify some underlying transformations and check whether there are clear trends across Europe or a still fragmented picture, and to estimate the presence of any signs of impact of the different phases of the initiatives of the EU in the field of industrial relations. In fact, even if institutions remain, their relevance and meaning can vary considerably, at least for two reasons. The first one is **dualization or fragmentation of the economy**<sup>31</sup>, whereby former institutions cover a decreasing share of the economy and the labour market; the second one is **conversion, as existing arrangements start to serve different and potentially opposite purposes**<sup>32</sup>.

<sup>31</sup> Emmenegger, P., Häusermann, S., Palier, B., Seeleib-Kaiser, M (2012), *The Age of Dualization. The Changing Face of Inequality in Deindustrializing Societies*, Oxford: Oxford University Press).

<sup>32</sup> Baccaro, L., & Howell, C. (2017). *Trajectories of neoliberal transformation: European industrial relations since the 1970s*. Cambridge: Cambridge University Press, p. 13.

### 3.3 The way forward building cross-border solidarity in the EU via social dialogue

**Social dialogue was conceived to help harmonise the European social space in a logic of social progress.** As European social policies aim to promote employment and improvement of living and working conditions, adequate social protection systems and social dialogue, the European Union can be assigned with a twofold task: (i) achieving harmonisation of living and working conditions, and (ii) ensuring their gradual improvement. **In the cycle of treaty revisions from 1992 to 2006, the EU was offered a social dialogue mechanism to accomplish its tasks. It is maybe a “unique” in modern democracies. By consequence,** social dialogue in the European Union has in its toolbox not only the harmonising power of the internal market, but also the approximation of legal provisions, regulations and administrative procedures. The European social dialogue operates in accordance with the well-known procedures established in Maastricht with the Protocol on Social Policy and consolidated in the Treaties. The origins and interpretation of Articles 153-155 TFEU are explored in detail in the SHAPE Report<sup>33</sup>.

**In the framework of Title IX and X of the TFEU, the EU mission for harmonisation has been implemented through the progressive raising of common minimum standards, through European legislation, and the continuous improvement of living and working conditions, the latter entrusted mainly to the economic governance of the Euro and the European budget.** A clear influence on the convergence of employment levels labour markets and industrial relations in the EU has been identified. This assumption is based on the overall evaluation of European policies, mixing hard and soft-law techniques. This is the result of multiple processes that have evolved during the years such as the Open Method of Coordination, the experimentalist governance, the mutual learning programs of the European Employment Strategy (Lisbon Strategy) then the European Semester with its country-specific recommendations, the Troika's Memorandums of Understanding in the assistance programs to the countries most affected by the public debt crisis in the 10ies. The group of experts brought evidence of the harmonisation enabling effects of the European social policies purposely shedding light on the Europeanization of the regulatory system of the British labour market.

<sup>33</sup> Outputs of the SHAPE project are available here [The Social Partners as shapers and makers of Social Europe: discovering foundations and futures • European University Institute](#)

**However, the outcomes of social dialogue are controversial and social practices vary in results.** From Maastricht onwards, the European social model has known mixed fortunes, from the establishment of the EU social dialogue in 1992 to a progressive retreat that has its historical minima from 2008 to 2015. A social *moratorium* often clustered the into the ideological concept of austerity. Next, there is a general acceptance of the idea that the 2014 elections, with the appointment of the European Commission led by J-C. Juncker, mark a reversal of course in European social policies that find, starting from 2017, its paradigm in the European Pillar of Social Rights.

**The European Pillar of Social Rights brought a decade of social legislation, accompanied by an attempt to revitalise the European social dialogue,** which culminates in the obligation of member states to draw up plans for the promotion of collective bargaining if the coverage of the latter does not reach 80% of workers (Directive 2022/2041). Signs of the revival of social dialogue can be seen in the European Semester of economic governance, with a progressive involvement of the social partners that finds a reference (but not final settings) in the revision of the 2024 Stability and Growth Pact, which incorporates some good practices, including some quality criteria for social partners' involvement, in the combined reading with the 2022 Recommendation on Social Dialogue, and the affirmation of the *Social Convergence Framework*<sup>34</sup>.

**The fluctuating development of social dialogue practices in European social policies suggests that the objectives of the Treaty on employment, harmonisation and “upward” convergence are not met.** The social dialogue itself moves between some success (i.e. the ability to condition, influence or co-legislate in European social policies) and eventual failures. The latter are underlined by the declining representative strength of social partners, reduced collective bargaining coverage and stagnant wage performance in Europe. But this is the average of divergent national experiences. What is at stake is not the judgement concerning the social partners capacity to organise themselves but the assessment of the EU ability to achieve its social objectives. How to treat diversity and divergences of national models in the light of the reinforcement of the EU Social model?

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<sup>34</sup> For methodological and contents of the social convergence framework a good starting point is the Joint Employment Report 2025 of the European Commission here: [Joint Employment Report 2025 - Publications Office of the EU](#)

**The extent of European competences in the social field, and therefore the ability to achieve the social objectives enshrined in the EU Treaties, is inversely proportional to the degree of diversity that characterises national systems.** This is because the provisions of the Treaty require the European Union to take account of diversity. Here a conceptual ambiguity materializes in handling the diversity of national systems of industrial relations as *value* or *disvalue*. In the letter of the treaties, the word “diversity” cannot be meant as the marker of a national identity. It can be assumed with a good degree of reliability that nothing in the EU Treaties can be meant as bearer of irremovable national identities. Rather, “diversity” is an attribute of the competitiveness of the European economy. At the end of the day, the chapter on social policy gives the European Union the power to decide which aspects of life at work, its risks and its dignity, are removed from competition (*diversity* as a disvalue) and which remain at the disposal of companies competing for a place in the sun in the internal market (*diversity* as a value). A dichotomy that may be also visible in the attitude of the European social partners towards the co-legislative perspectives of the European social dialogue.

**The reality today is that, if the economy converges, in a progressive integration into a single EU labour market, social policies remain de facto national (social protection, labour market and industrial relations).** This reduces the capacity of workers to build shelters against downward pressures that the market exercises on working conditions. SHAPE offers a good lesson from the past to be learnt. History shows that it is very difficult for the European Union to intervene where labour protections, whether individual or collective, are characterised by profound differences. It is rather easier to intervene on protections that are gradually approaching in their regulation or practices, which collective bargaining may contribute to. The European lawmakers are better off when consolidating and making converging standards a common asset for all European workers employed in the internal market and their companies. **This has an impact on the capacity of social dialogue to exercise its (quasi) legislative functions.**

In fact, the ASPE group underlines the lack of convergence<sup>35</sup> by recalling data on wage trends, on the coverage rate of collective bargaining and more generally on main

<sup>35</sup> This is evidenced by the decades-long lack of European agreements aimed at legislative production with a few exceptions concerning parental leave, working conditions in the maritime sector, and the two unsuccessful attempts on health protection in the hairdressing sector and information and consultation in public administrations.

trends of decent work. It is precisely the *social scoreboard* and a renewed function of the *Joint Employment Report* in the context of the mutual surveillance processes typical of the European Semester (in application of Article 148 TFEU) that reports this condition of weakness of social policies.

**The absence of upward convergence, which includes the (non)harmonisation of labour protections, undermines transnational solidarity between workers and thus the potential for the collective defence of their interests.** The ASPE Group emphasizes how capitalist structures, on the other hand, which are constantly evolving, take advantage of this condition because competitiveness is nourished by differences and divergencies. The diversity of protections and working conditions in the game of competition too often takes the form of social dumping, fuelling the divergent effect, if not of real exploitation of labour.

**Cross-border solidarity should find greater consideration in the EU treaties. This is not the case so far. The internal market does not find any form of (self)regulation in transnational collective bargaining.** There are many bugs in the way the social market economy is conceived at EU level. Even the work carried out in the 1990s and at the beginning of the new millennium, on the virgin soil of industrial relations in countries joining the EU, moving from a planned economy to a market economy Union, did not produce evident progress in social dialogue structures (understood in the Maastricht's way). Even more, austerity measures deteriorated social dialogue structures in countries with systemic fiscal challenges. These should be seen as failures in the progressive integration of national economies.

**If national practices do not scale up, cross-border industrial relations lag.** National and European practices of collective bargaining and social dialogue nourish each other, are complementary. The ASPE group takes note that transnational bargaining experiences remain confined to a few transnational framework agreements concluded between multinational companies and European or international trade union federations and/or with European (or global) works councils. Still, the EWCs constitute the most advanced representative structure of transnational trade unionism.

Precisely on the issue of the EWCs, the historical work performed by the EU Archives in the SHAPE project allows us to affirm that **the European works councils were born in the context of a trade union claim in favour of transnational bargaining.** EWC themselves are established through transnational negotiation between workers (or

European sector federations) and the central management of a multinational company. This has created a negotiating capacity that goes beyond the moment of establishment of an EWC and, today, feeds the experience of transnational framework agreements.

This has not prevented the EWCs from being positioned in a middle ground in which the participatory moment is incomplete (all attempts to move from information and consultation paths to moments of co-decision have failed) nor is the negotiation experience structured (the attempt to set up a promotional framework for transnational bargaining with multinational companies has also failed). About 200 TCAs currently in force express an advanced point of international bargaining outside institutional forums such as the ILO. For the future, negotiations may be encouraged starting from where they are more frequently practiced, i.e. where management and workers find a common interest in acting together.

**The advancement of transnational bargaining can mature the way of expressing transnational solidarity** in *multi-employer* negotiations, particularly suitable for providing new life to the centrality of work in European social policies, in the path toward better living and working conditions for all European workers and in the enhancement of social dialogue.

**More divergence than convergence, therefore.** The group reaches a preliminary conclusion, expressing a negative assessment of the response between convergence and divergence of national systems of social dialogue. The debate confirms a strong fragmentation of industrial relations practices and a difficulty in the method of social dialogue to impose itself when national, sectoral and company levels do not integrate or even do not exist. The need to have more effective legislative instruments for binding and harmonizing force (regulations?) and to reflect on the structures and functions of the transnational collective agreement is indicated as a possible way forward. However social dialogue remains a key policy tool for the EU its successes let us affirm that there is still room for current social structure to bring large benefits to European workers and enterprises investing in the EU social model.

## 4. THE CURRENT STATE OF EUROPEAN SOCIAL DIALOGUE: DEVELOPMENTS AND CHALLENGES<sup>36</sup>

After the presentation of the chapter on convergences and divergences trends of collective bargaining in the member states, the current chapter aims at: a) assessing the current state of the European social dialogue; b) highlighting recent developments and critical challenges; c) connecting these trends to historical foundations and future prospects of European social dialogue; d) adapting the Treaty and the European Social Dialogue to the future of work perspectives, as illustrated by the ILO 2019<sup>37</sup>, according to which social dialogue is essential to address challenges by technological, demographic, and environmental transformations and negotiate policies that promote social justice, peace, and dignity in the world of work.

The present reflections move from **the EPSU ruling of the Court of justice<sup>38</sup>, a turning point with respect to the quasi-legislative notion of social dialogue**, rooted in the historical origin of the social dialogue designed by the Maastricht Social Policy Agreement and the practice since then followed by the European Commission. **The *vulnus* caused by this judgement in terms of implications for European social dialogue and its legal-political impact consists in a threat to the autonomy of social partners** because it weakens the procedural guarantees of Article 155 Tfeue and in casting doubt on the binding nature of negotiated agreements. Furthermore, it shifts the balance of power by increasing the discretionary role of the Commission and reducing the co-legislative influence of social partners causing potential chilling effect that discourages future negotiations whether social partners cannot rely on institutional follow-up. Indeed, the ruling was accompanied by reactions and criticism,

<sup>36</sup> Author of this chapter is Prof. Fausta Guarriello - University of Chieti Pescara – Sindnova

<sup>37</sup> ILO, Work for a brighter future, Geneva, 2019.

<sup>38</sup> CJEU, C 21/656, *Epsu and Goudriaan v. European Commission*, 2 September 2021.



raising broad concern among trade unions and academic commentators<sup>39</sup> as it was perceived as a political setback for the structured and autonomous development of European social dialogue and seen by many as weakening trust and credibility in the EU-level negotiation framework.

**The attempt to break the impasse is marked by possible responses and remedies such as calls for treaty revision to clarify the legal obligations under Art. 155 Tfeue, proposals to introduce procedural guarantees or criteria for Commission decision-making, emphasis on restoring trust through new political commitments between Commission and social partners.** This chapter aims to explore the issues underlying an effective relaunch of the European social dialogue as a regulatory mechanism of social relations in the face of new challenges.

A first response from the Commission to the upheaval created by the Epsu case is in the European Social Pillar Action Plan implementing Principle 8 on strengthening social dialogue. Based on Nahles report<sup>40</sup>, the EU Commission on 25 January 2023 published a communication<sup>41</sup> and a Proposal for Recommendation<sup>42</sup> to member states, approved by the Council on 12 June 2023. These are soft law instruments without binding effects and intended to operate in the national and European dimensions, in the spirit of cooperation between different levels of regulation envisaged by the European Social Pillar. In the statements introducing the two interrelated acts, a tribute to the social dialogue is celebrated by recalling that European social dialogue is a cornerstone of the European social model that must be strengthened at both national and European level to ensure its fruitfulness and effectiveness in addressing the ongoing changes,

<sup>39</sup> See: Alaimo A., Che fine ha fatto la contrattazione collettiva europea?, in *Lavoro e diritto*, 3/2020, 495 ss.; Ales E., Delfino M., The European social dialogue under siege?, in *Diritti lavori mercati*, 1/2022; Borelli S., Dorssemont F. (eds.), *European social dialogue in the Court of Justice. An Amicus curiae workshop on the EPSU case*, WP CSDLE "Massimo D'Antona", Collective volumes 10/2020, text available at: <https://csdle.lex.unict.it/docs/workingpapers/European-social-dialogue-in-the-Court-of-Justice-An-Amicus-curiae-workshop-on-the-EPSU-case/6089.aspx>; Carré P., Steiert M., Social Europe without Social Dialogue: Decision of the Court of Justice of the European Union in C-928/19 P *European Federation of Public Service Unions*, *European Constitutional Law Review*, 18/2022, 315 ss.; Dorssemont F. (2020), La non promozione del dialogo sociale europeo: osservazioni sul caso EPSU, *Lavoro e diritto*, 2020, 519 ss.; Dorssemont F., Some observations on the Epsu case: a bad judgment for democracy subsidiarity alias a

<sup>40</sup> Nahles A., Report on strengthening EU social dialogue, 2021, Brussels.

<sup>41</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Strengthening social dialogue in the European Union: harnessing its full potential for managing fair transitions, COM (2023) 40 final.

<sup>42</sup> Council Recommendation on strengthening social dialogue in the European Union (C/2023/1389).



from digital to green transition and climate change. The two interrelated acts aim to strengthen the various forms of social dialogue, from consultation with public authorities to bilateral collective bargaining at cross-sectoral, sectoral and company level. The focus on national social dialogue stems from awareness of the weakening rate of collective bargaining coverage in the member states and the very fragility of social partners in many countries, where social dialogue practices tend to be reduced to merely formal consultation processes.

Thus, **the recommendation to member states is to strengthen social dialogue as a policy-making tool and to support collective bargaining, especially at multi-employer level**, marking a sharp u-turn from the country-specific recommendations and memoranda of understanding sent to member states during the austerity phase<sup>43</sup>, in which instead the dismantling of sectoral bargaining was urged<sup>44</sup>. It is important to note that the recommendation put pressure on member states to ensure the respect of ILO Conventions n. 87/48 and 98/49 respectively on freedom of association and the effective right of collective bargaining, to foster capacity building of social partners in weaker member states, to **encourage experimentation with new forms of representation for new jobs, in particular digital jobs, to ensure institutional support for cross-sectoral agreements and promote research and data on evolving labour relations**. The progress realized in the field will be monitored and assessed within the framework of the European Semester procedures through the recently introduced social scoreboard and the social convergence framework, a mechanism based on a set of social indicators similar to that used for country-specific recommendations addressed to member states in the context

<sup>43</sup> Kilpatrick C., L'Europa della crisi si rivolge all'OIL: come è cambiata la mobilitazione sui diritti sociali e del lavoro, Rivista Giuridica del Lavoro, 1/2019, 147 ss; T. Beukers, B. De Witte and C. Kilpatrick (eds) Constitutional Change Through Euro-Crisis Law, CUP 2017; Kilpatrick C., Social Europe via EMU: Sovereign Debt, the European Semester and the European Pillar of Social Rights, Giornale di Diritto del Lavoro e di Relazioni Industriali 160/2018, 737 ss.

<sup>44</sup> Glassner V., Keune M., Marginson P., Collective bargaining in a time of crisis: developments in the private sector in Europe, Transfer, 17/2011, 303 ss.; Keune M., Less governance capacity and more inequality: the effects of the assault on collective bargaining in the EU, in Van Gyes G., Schulten T., eds., Wage bargaining under the New Economic Governance, Etui, Brussels, 2015, 283 ss.; Marginson P., La contrattazione coordinata in Europa: da un'erosione incrementale a un attacco frontale?, Quaderni rassegna sindacale, 1/2016, 75 ss.; Marginson P., Keune M., Bohle D., Negoziare gli effetti dell'incertezza? In discussione la capacità di governance della contrattazione collettiva, Quaderni rassegna sindacale, 1/2016, 103 ss.; Leonardi S., L'impatto della nuova governance europea sulla contrattazione collettiva, Quaderni rassegna sindacale, 1/2016, 147 ss.; Guarriello F., Legge e contrattazione collettiva in Europa: verso nuovi equilibri?, Giornale di diritto del lavoro e di relazioni industriali, 1/2017, 97 ss.

of macroeconomic governance. This soft law mechanism aims to give visibility to the measures taken by Member States to strengthen collective bargaining coverage, in accordance with Article 4 of Directive 2022/2041 on adequate minimum wages, and to monitor countries that have not made significant progress.

For its part, the Commission undertakes to maintain logistical and technical financial support for interprofessional and sectoral social dialogue at European level and to introduce a new social dialogue officer in each directorate general as a link figure. The reference to the consultation procedure of the social partners under Art. 154-155 Tfeue implicitly confirms the recent EPSU ruling. No backward step is announced on the exercise of the Commission's discretionary power to submit a proposal for a directive based on the social partners' agreement. In fact, a further source of disappointment comes from rumors about the Commission's willingness to disengage from technical support to the social dialogue inferred from the request to the social partners to draw up the minutes of meetings themselves and to conduct them possibly remotely in order to reduce costs and the environmental footprint<sup>45</sup>. Between the lines of its communication, one can glimpse a certain lack of confidence on the part of the Commission regarding the regulatory role of the social partners and the ritual nature of social dialogue meetings, which often do not lead to any useful results<sup>46</sup> as is evident from the data collected and monitored on the Commission's website<sup>47</sup>. However, the Commission does not go so far as to analyse the reasons why the European social dialogue has become so unproductive<sup>48</sup>, probably so as not to run the risk of undermining the principle of collective autonomy enshrined in Article 152 Tfeue.

The latest developments in social dialogue (2023-2025) show a renewed political commitment by of EU institutions, social partners, and civil society to strengthen the social dimension of the EU and ensure a fair and inclusive transition in the

<sup>45</sup> Interviews with social partner representatives within sectoral social dialogue committees.

<sup>46</sup> Confirmed by the analysis made by Etui, A fruitless European Social dialogue?, in Benchmarking Working Europe 2025, Brussels, 2025, 155 ss.; Keune M., EU Law-making by European unions and employers: a vision unfulfilled, forthcoming, 2025.

<sup>47</sup> See joint texts published on the European Commission website: [https://employment-social-affairs.ec.europa.eu/policies-and-activities/eu-employment-policies/social-dialogue/social-dialogue-texts-database\\_en](https://employment-social-affairs.ec.europa.eu/policies-and-activities/eu-employment-policies/social-dialogue/social-dialogue-texts-database_en)

<sup>48</sup> There are many reasons for this, but the main obstacle lies, as is well known, in the lack of interest on the part of employer's organisation BusinessEurope in regulating labour matters through negotiation rather than legislation, as was the case in the 1990s. This means that the main employers' organisation prefers to act as a lobby rather than as a social partner, making use of the prerogatives granted to it by the Treaty.

interinstitutional declaration made on the occasion of the 40th anniversary of the launch of the Val Duchesse meetings at La Hulpe in April 2024<sup>49</sup> and in the signing of the Pact for European Social Dialogue in March 2025.

**The political debate in the run-up to the European elections in June 2024 was marked by the reference to the indications coming from the Letta report on the internal market and the Draghi report on competitiveness.** Enrico Letta's report<sup>50</sup> on the future of the European Single Market, presented in April, suggests deeper integration in sectors such as energy, telecommunications, financial services together with the introduction of a "fifth freedom" for research, innovation, data, skills and artificial intelligence, suggesting the use of regulations rather than directives to ensure greater legal clarity and consistency across the Single Market. Mario Draghi's report on the competitiveness of the European Union<sup>51</sup>, released in September 2024, focuses its analysis and proposals on how to recover the EU's competitiveness gap through massive investments with European resources in strategic and innovative sectors, in energy autonomy, as well as in the simplification of rules. **The report emphasizes the need for a comprehensive approach to enhance competitiveness while maintaining the EU's social model.**

The interpretation given to the Draghi report mainly emphasised the need to reduce the regulatory burden that results in an excessive cost for European businesses reducing their competitiveness. Although the report focused on the issue of competitiveness, in light of the clarifications made by its author in public presentations, it is possible to give it an interpretation compatible with maintaining the European social model. Key points of a different reading of the Draghi report relate to: a) **investment in human capital**: Draghi advocates for significant investments in education and skills development to address the emerging skills gap. This aligns with the role of social dialogue in shaping education and training policies that meet the evolving needs of the labor market; b) **quality employment**: the report stresses that competitiveness should not come at the expense of workers' rights and job quality. Social dialogue is crucial in ensuring that labor standards are upheld, and that economic growth translates into better working conditions; c) **inclusive policy**

<sup>49</sup> The declaration aims to set the future social agenda for the 2024-2029 period and reaffirm the European pillar of social rights as the guiding compass for EU social policy in the coming years. The declaration was not signed by BusinessEurope.

<sup>50</sup> Letta E., Much more than a market, April 2024.

<sup>51</sup> Draghi M., The future of European competitiveness, September 2024.

**development:** Draghi highlights the importance of involving social partners in the policymaking process to ensure that economic strategies are inclusive and equitable<sup>52</sup>. This underscores the value of social dialogue in fostering policies that balance economic objectives with social considerations. **These elements suggest that reinforcing social dialogue is integral to achieving a competitive and socially responsible European Union.**

Commission President Von der Leyen took many suggestions from the Draghi report. Among them the mandate given to the new Commissioner for Social Affairs and Executive Vice-President Roxana Mînzatu: social dialogue is a central pillar of her portfolio on Social Rights, Skills, Quality Jobs, and Preparedness. A new European Social Pillar Action Plan is scheduled in the programme for 2025, while the Pact on European Social Dialogue intends to ensure that digital and green transitions are accompanied by adequate skills development and quality working conditions, as well as the Union of Skills<sup>53</sup> document enhances its role in tackling skills shortages and labour migration.

**The uncertainties of the present time, heightened by international geopolitical instability, provide a formidable opportunity to consolidate the European model and focus on social cohesion by responding to citizens' concerns and the disruptive criticism of populism.** Social dialogue must also play its part in making Europe more cohesive and inclusive addressing the dilemma of improving competitiveness without renouncing ESG objectives but focusing on their achievement by means of fair transitions.

**Social dialogue faces strategic opportunities that make it an essential tool for finding shared solutions to epochal challenges.** Embedding social dialogue in EU industrial and transition policies aiming at relaunching competitiveness (robotics, generative AI, clean energy production, biotechnologies, aerospace) demands a **qualitative leap** forward from the European social partners, linked to continental scale of the challenge and massive investments requested at EU level. It requires enhanced

<sup>52</sup> In chapter 2.3 Safeguarding social inclusion, after emphasising the need to update cohesion policies, the Draghi report stresses: "Leaders and policymakers should engage with all actors in their respective societies to define objectives and actions for the transformation of the European economy. More effective and proactive citizen engagement and social dialogue bringing together trade unions, employers and civil society actors will be key to building the consensus needed to drive change. Transformation can only lead to prosperity for all if accompanied by a strong social contract".

<sup>53</sup> Communication COM(25) 90 final, 5/03/2025, the Union of Skills.

cross-border coordination of social partners and their greater role in European economic governance.

In fact, both transitions entail profound changes in the labour market, production models and required skills. Social dialogue is essential to support the professional requalification, ensure a just transition, build adaptation strategies with the involvement of sectoral and territorial actors, avoid exclusion and prevent social conflict that could hinder innovation processes. At the same time demographic decline and population aging pose serious challenges to the sustainability of welfare systems, labour organization, productivity and intergenerational balance. On these issues social dialogue can contribute to promoting shared solutions on pensions, active aging policies, migrant integration; helping make the labour market more inclusive for women, youth, people over 55; negotiating flexible and sustainable work models, balancing productivity and quality of life.

**Promoting an integrated European perspective and assigning a specific role to social dialogue at transnational and European level is crucial as many decisions are taken at the EU level.** In areas of strategic interest, such as climate change, AI infrastructure, energy security, emerging technologies, etc. the European social dialogue has the potential to generate innovative avenues for joint regulatory frameworks, eventually backed by targeted financial support; it helps prevent competition among Member States from resulting in social or environmental dumping; it strengthens the European Pillar of Social Rights balancing market dynamics.

It is strategic to grant social dialogue an autonomous, structured, and proactive role at the European level. This helps ensure that transitions are governed in a democratic and inclusive way, while also strengthening social cohesion and the legitimacy of European integration in the face of global challenges. New regulatory framework (adequate minimum wage, platform work, pay transparency, AI regulation, corporate sustainability reporting, human rights due diligence) explicitly refers to the role of social dialogue and collective bargaining. The role of social dialogue should be coordinated and developed based on this framework, giving space and priority to collective agreements and action plans jointly defined by the social partners to give visibility to more robust collective relations on a European scale. It is to be hoped that the trend towards fragmentation and avoidance of the role of collective organizations

will be overcome as of the expected ruling of the Court of Justice on the directive on adequate minimum wages, in particular on its article 4 on national measures to support collective bargaining; the simplification/deregulation legislative initiatives (omnibus package 1) aimed at postponing the implementation deadlines of the CSR and CSDD directives, reducing the administrative burden by 25% and exempting a large number of companies from compliance burdens; the ambiguities regarding the new simplified legal framework for start-ups and scale-ups in order to ensure competitiveness and to attract global tech companies (the EU Startup and Scaleup Strategy).

**In conclusion, in the current phase it is not enough to ritually confirm the essential role of the European social dialogue, but to act for a qualitative leap to meet emerging challenges.** The fact that the scale of new challenges needs responses at continental level requires the European dimension of social partners develops a stronger and autonomous identity. European social dialogue should become capable to give responses at the continental level overcoming the fragmentation of national interests to steer ongoing transformations, the capacity to negotiate and conclude European collective agreements, including those of a regulatory nature, being supported through a renewed commitment by EU institutions to their adoption as Council decisions, if requested by the social partners. Moreover, **positive conditionality – such as access to EU funding or public procurement – should be employed to encourage companies to implement such agreements.**

**The proposal to strengthen a truly European dimension of the social dialogue in the face of global challenges is based on the consideration that these challenges are transnational in nature** and can only be adequately addressed from a continental perspective: climate change, environmental protection, the use of AI, demographic decline and migration, the competitiveness and innovation gap, the multiple dimensions of security<sup>54</sup> (defence, energy, wars at Europe's borders, security of supply chains, threats to information systems, etc.). It is therefore necessary to strengthen European decision-making mechanisms in the field of common policies and resources, as well as joint regulation mechanisms in the field of social policies, as expression of horizontal subsidiarity.

How? By recovering the original idea behind the institutionalisation of social dialogue as a process of participation of civil society actors in the decision-making process of

<sup>54</sup> Degryse C., What if? A socio-environmental agenda in a “security Europe”?, Foresight brief, Etui, 11, October 2024.

the European institutions, recognising to the organised representations of economic-professional interests (management and labour) a special status that gives them not only consultative functions, but also joint regulation on matters falling under Article 153 TFEU through collective agreements. **The ability to negotiate, i.e. the ability to regulate through collective agreements the working conditions of entire categories of workers or all workers covered by the agreement, constitutes the essential and distinctive prerogative of the social partners (trade unions and employers' organisations) vis-à-vis other civil society organisations.**

The objective of relaunching the European social dialogue, through the recovery of the original idea of a mechanism of democratic participation and foundation of social democracy, proclaimed by Commission President Juncker since his inauguration speech in 2014, reaffirmed by the Porto and La Hulpe declarations and the recent Social Dialogue Pact, in order to become effective and not a mere proclamation ("parole parole parole"), needs concrete actions that will realise at European level **a new season of support for the social dialogue**, as requested by the 2023 recommendation to member states. While there is no doubt that the European social dialogue is fed from the bottom up by the health of the national social dialogue, forty years after the first practices of European social dialogue and more than thirty years after its institutionalization with the Social Policy Agreement, the result of an agreement between European social partners, there is an urgent need to review the mechanisms for recognizing the special status of the European social partners, granting quasi-legislative prerogatives to social actors.

If the use of the term *relaunch* implies at least a dubious assessment of the vitality and effectiveness of the European social dialogue, described as fruitless by observers attentive to its developments<sup>55</sup>, there is an urgent need to understand the reasons for this stalemate and to act as a stimulus to the social actors, specifically the employers' organisation BusinessEurope, which is reluctant to engage in European agreements, including through mechanisms of a rewarding nature. The institutional framework designed by the Treaty allows the Commission, with unchanged arrangements, to review its function of providing balanced support for the social dialogue while respecting the collective autonomy of the social partners and recognizing the diversity of industrial relations systems in the member states. Mention should be made here of

<sup>55</sup> Etui, A fruitless European Social Dialogue?, in Benchmarking Working Europe 2025, Brussels, 2025, 155 ss.



the communications in which the Commission defined the criteria for the representativeness of the social partners at interprofessional and sectoral level<sup>56</sup>, the subject of the periodic monitoring entrusted to the European Foundation for the Improvement of Living and Working Conditions<sup>57</sup>.

It might prove useful to review by means of a legally binding instrument the criteria of representativeness of the European cross-sectoral and sectoral social partners, considering the actual negotiating capacity at European level. Since the representativeness of European organizations is a result of the representativeness attributed according to various criteria at national level to affiliated organisations, many decades after the Commission's first communication setting out the criteria of representation of the European social partners for the purposes of access to the double consultation provided for in Article 154 TFEU, **it seems appropriate to revise and supplement these criteria in order to emphasize not only structural adequacy but also, and above all, the activity actually performed at European level by these organizations. The statutory verification of the collective bargaining power possessed by the European social partner organizations** through the statutory provisions laying down the terms of reference for the negotiating delegations and the voting procedures on agenda and draft agreements **can no longer be sufficient**, nor can the verification of the actual participation in the sectoral social dialogue committees be based on the number of meetings held and the number of participants per country, **without taking into account the outputs of these meetings in terms of joint actions, work programmes, agreements**. Therefore, the periodic review carried out by Eurofound, which is very useful for checking changes over time and the degree of interest representation while paying attention to the fundamental distinction between the representation of companies as employers organizations and as business associations, is not adequate to appreciate the dynamic representativeness of the social partners.

In order to relaunch the European social dialogue, the representativeness of the social partners can no longer be solely derived from the national affiliated organizations<sup>58</sup>, at least from a functional point of view: the dependency link with the affiliated

<sup>56</sup> European Commission 600/1993; European Commission 448/1996; European Commission 500/1998.

<sup>57</sup> See: Eurofound, Representativeness of the social partners in European cross-industry social dialogue, Sectoral social dialogue series, Dublin, 2023, in addition to number of reports on the representativeness of social partners at sectoral level.

<sup>58</sup> It is also useful to verify over time the permanence of structural requirements and continuity of action.



organizations must be softened, otherwise the latter retain the power of control and veto over the activity of the second-level organization (a process similar to the relationship between member states and the Union).

**Genuine European criteria for the recognition of second-degree organisations are: effective participation in consultation processes, the exercise of collective autonomy through the negotiation and signing of European agreements, work programmes, guidelines, monitoring actions and the implementation of autonomous framework agreements, joint requests for transposition into Union directives, mobilization actions, active participation in social dialogue in policy-making processes.** The actual exercise of the prerogatives recognized to the European social partners by the Treaty (recognition of their autonomy ex 152 TFEU, consultation in the legislative process ex 154 TFEU, pre-emption of the agreement directly negotiated between them ex 155 TFEU) must become the most relevant criterion, also in order to channel the resources to support social dialogue to those organizations that actually play the special role recognized to them by the Treaty.

Balanced support for social dialogue, as referred to in Art. 154 TFEU, implies, on the one hand, that the Commission support organizations with less economic and lobbying power, and, on the other hand, that it gives priority to those who actively and constructively participate in social dialogue<sup>59</sup>, by exercising their prerogatives as negotiating parties. The so-called European social partners, who are the recipients of the Commission's double consultation on regulatory initiatives, must be reserved for historical or newly formed organizations that are not only potentially able but also actually able to prove that they carry out real activities of a trade union nature at European level.

In this regard, it is appropriate to give relevance to the trade union nature of the activity carried out for the purpose of the collective regulation of working conditions and the defense of economic-professional interests of categories of workers and employers through the exercise of collective autonomy. The mere lobbying activity, exercised by any interest group to influence the European institutions to obtain the

<sup>59</sup> Secondary legislation uses the general clauses of good faith or constructive spirit when it refers to the finalisation of the dialogue between the social partners with a view to the signing of a collective agreement (e.g. on the establishment of the European Works Council or the body representing employees in the European Company; on the joint examination of corrective measures on the gender pay gap; on consultation in good time with a view to reaching an agreement or seeking an agreement on collective redundancies and company transfers).

approval, amendment or withdrawal of legislative or political acts, cannot be included in the notion of social dialogue. Although trade unions also use lobbying, their history is marked by the evolution from a purely lobbying function at the European level to that of social actors exercising the prerogatives deriving from the principle of trade union freedom<sup>60</sup>.

The trade union nature of the activity carried out, which can be deduced from the associative statute of the European organizations and from the actual carrying out of activities related to the protection of the interests of workers and employers as their natural counterparts, distinguishes these organizations from civil society organizations, which are the recipients of civil dialogue with the European institutions and of specific legislation affecting them as the bearers of diffuse interests in specific sectors, such as environmental protection, consumer protection, and the defense of victims of discrimination and the violation of human rights.

Although the most recent legislation brings some fundamental labour rights into the category of human rights by empowering human rights organizations to intervene with public authorities on social policies concerning decent work, the right to housing, education and training, health, minimum income, the means by which non-profit organizations act (information campaigns, mobilisations, hearings, reporting, etc.) remain distinct from the prerogatives of a strictly trade union nature<sup>61</sup>. Interesting in this respect is the debate opened within the ILO on the tripartism of the international organization specializing in labour issues, on the possible opening up to different components representing civil society<sup>62</sup>, opposed by the representatives of workers' and employers' trade unions, despite the fact that there are areas not covered by traditional trade union representation, such as child and forced labour, certain

<sup>60</sup> Sciarra S., La libertà sindacale nell'Europa sociale, *Giornale di diritto del lavoro e di relazioni industriali*, 3/1990, 653 ss.; Sciarra S., *Collective Agreements in the Hierarchy of European Community sources*, in Davies, Lyon-Caen, Sciarra, Simitis (eds.), 1996, 189 ss.; Guarriello F., *Ordinamento comunitario e autonomia collettiva. Il dialogo sociale*, Milano, 1992; Lo Faro A., *Funzioni e finzioni della contrattazione collettiva comunitaria*, Milano, 1999; Didry C., Mias A., *Le Moment Delors. Les syndicats au coeur de l'Europe sociale*, Bruxelles, 2005; Ciampani A., Gabaglio E., *L'Europa sociale e la Confederazione Europea dei Sindacati*, Bologna, 2010; Lapeyre J., *Le dialogue social européen. Histoire d'une innovation sociale (1985-2003)*, Etui, Bruxelles, 2017.

<sup>61</sup> This distinction is reiterated in the Pact for European Social Dialogue of 5 March 2025.

<sup>62</sup> The ILO has registered more than 150 NGOs in its special list covering a wide variety of fields, such as the promotion of human rights, poverty alleviation, social security, professional rehabilitation, gender issues, and youth matters.

discrimination factors, informal work, protection of the environment and the health of populations, etc.

**Another condition for relaunching social dialogue and making the conclusion of agreements attractive to the most reluctant social partner organizations is to establish conditionalities for the use of European funds.** Social conditionalities have already been used in both the European and national dimensions to reserve or prioritize access to European funds for companies applying collective agreements. In relation to new global challenges (climate change, green transition, digitization and the impact of AI on work, competitiveness and innovation, quality work), the use of dedicated funds should be reserved for companies applying company or sectoral collective agreements implementing regulatory frameworks defined at European level: see the proposal for the European Competitiveness Fund (ECF), which includes specific defense research programmes and technological innovation activities in strategic sectors critical to European competitiveness, as outlined in the Letta and Draghi reports and the Competitiveness compass delivered in January 2025. Among the key factors for the recovery of the competitiveness gap of the Union, the proposal mentions innovation capacity, decarbonisation, reduction of over-dependencies and improvement of security, while among the enabling factors, besides simplification, removal of barriers in the single market, financial instruments and better coordination, the “social” objective of improving skills and quality work stands out.

**This strategic objective recalls the fundamental mediating and regulating role of the social partners, who could at a cross-sector and sectoral level build the regulatory framework for the work revaluation.** They can do it through the provision of training leave, pathways for the upgrading and adaptation of skills, employment stability, forms of participation in company decisions linked to productivity improvement objectives, talent attraction and retention strategies, promotion of professional equality, active ageing and work-life balance measures linked to people's different needs, good wages, creation of a professional statute for workers on digital platforms and in general for remote work, according to best practices in some countries and on the basis of the regulatory support provided by existing directives<sup>63</sup>. **Joint action programmes, guidelines, collective agreements of**

<sup>63</sup> See: Kilpatrick C., The Roaring 20s for Social Europe. The European Pillar of Social Rights and burgeoning EU legislation, Transfer, 29/2023; Keune M., Pochet P., The revival of Social Europe: is this time different?, Transfer, 29/2023, 173 ss.

**an autonomous nature or transposed into regulatory instruments ensuring their *erga omnes* effect could redesign and revive the role of social dialogue as an instrument of social regulation.** On the other hand, from the point of view of the Union's institutions, the scale of the challenges to be faced in the present situation of global disorder calls for all available resources to be called upon, using the proactive recourse to joint regulation as a leverage effect of the support given to companies, also highlighting the practices of the transnational company agreements signed by European multinationals (TCAs). All dimensions and levels at which social dialogue operates are mobilised by the challenges of the twin transition, climate change and the recovery of competitiveness and innovation in the European economy. The Commission's strong backing for social dialogue, including through financial support, is essential in the current uncertainty to tackle the many challenges facing social and labour regulation.

Finally, the European Commission in the Pact for European Social Dialogue signed on 5 March 2025 commits itself to define with the social partners a procedure for submitting a proposal for a directive to the Council when the European social partners jointly request it<sup>64</sup>. This internal procedure aimed at restoring trust between the Commission and the social partners should prevent the agreement from being rejected by providing a system of alerts from the Commission to the social partners regarding aspects of the agreement that could cause political problems with its implementation. This would allow the social partners to resume negotiations, if necessary, to address the Commission's concerns. This would be an internal, practice-based adjustment to avoid the unfortunate misunderstanding in the EPSU case, where an agreement resulting from an initial phase of consultation with the social partners was rejected by the Commission for transposition into a directive. Regarding the procedure under Article 155 TFEU, to address the Court of Justice's objections, it would be advisable to involve the European Parliament more fully in the submission of proposals for directives resulting from social dialogue, thus reintegrating it into the law-making process. Regarding matters that have a significant impact on the powers granted to the regions (environment, sustainable development, social services), the Committee of the Regions could also be involved in the legislative transposition process.

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<sup>64</sup> "The Commission will organize an exchange with social partners, after the adoption of the Pact, on its procedure as set out in its 2023 Communication on social dialogue for the implementation of EU social partners agreements through EU law at the request of social partners".

*Last but not least*, the long-standing problem of the Union's competences in social matters, most recently the subject of an appeal brought by Denmark for the annulment of the directive on adequate minimum wages, comes to the fore. **The issue of competences in the social field requires a review of those competing between the Union and the Member States, given the epochal challenges that are having a direct impact on the lives of workers and citizens.** In order to keep the promise of an upward convergence of living and working conditions, the major upheavals triggered by climate change must be taken into account, as well as the conversion to a green and circular economy and the digital transition. This conversion assumes awareness of the limits and exhaustibility of the planet's resources and aims to find alternative solutions with a lower impact, based on reliable scientific data. In the context of a future reform of the treaties, the values that inspire the actions of the European Union and its objectives cannot fail to impact social co-regulation by extending the scope of social competencies to include the ongoing transitions.

The Commission appears to be aware of the social dimension, as evidenced by its commitment to consult social partners in the Social Dialogue Pact “in a timely and meaningful way on policy initiatives that do not fall under the scope of article 153 and 154 but are of particular relevance for social partners”. In this regard, the very establishment of social dialogue coordinators in each directorate-general aims “to promoting a better understanding of social dialogue and a coherent approach across Commission services”, just as upstream the establishment of a European Social Dialogue Envoy is assigned the task of “contribute to improving awareness and understanding the role of social dialogue within the Commission, promote timely and meaningful consultation of social partners on initiatives and policies relevant to them”. Over the next few months, we will be able to evaluate the progress of the renewed focus on strengthening social dialogue, which aims to enhance the long-term competitiveness of European companies while promoting quality employment and social justice.

## 5. RECOMMENDATIONS FOR THE FUTURE OF THE EUROPEAN UNION'S SOCIAL POLICIES AND SOCIAL DIALOGUE

### 5.1 A NEW SOCIAL CONTRACT BASED ON PEACE, SOCIAL JUSTICE AND DECENT WORK

Based on the above analysis, supported by the conclusions of work packages 2 and 3 of the SHAPE project, **the group identifies an inefficiency in European decision-making processes that penalizes both legislative leverage, when it aims to raise the level of minimum common standards, and economic leverage, when it suffers from a lack of resources to activate upward convergence in the living and working conditions of people in the EU.**

The ASPE Group, questioning the adequacy of the Treaties to fully legitimate the expanding scope of action of the European Union reflects on the obsolescence of the social provisions of the TEU and TFEU. It also reflects on the limits of the mandate of the European institutions confronted with new challenges concerning work and its regulation. Shortcomings that seem to find evidence in the socio-economic outlook characterized by growing inequalities and a widespread disillusionment of citizens with the Union's ability to produce solidarity and social progress. This has resulted in a reduction in the space devoted to social dialogue in the EU legislative process, despite the space that the treaties sought to guarantee to the EU social partners, particularly in Title X of the TFEU.

**It follows that revisiting the EU Treaties is the “high road” to prepare the European Union for the challenges of the future, preserving social cohesion and strengthening social dialogue.** The EU needs to deliver in areas such as defence, security, preparedness, technological leadership<sup>65</sup> and tries to do so. As shown in previous paragraphs, the EU has expanded its field of influence since the Treaty of Lisbon. It can also be said that the EU institutional framework sets a too narrow scope compared to the responsibilities and expectations charged on the EU institutions. The functional extension of the Union's competences is a well-known phenomenon, but we are talking of something different. The interpretative manipulation of the Treaties can

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<sup>65</sup> Europe's Choice Political Guidelines For The Next European Commission 2024–2029 Ursula von der Leyen Candidate for the European Commission President and European Council, Strategic agenda 2024-2029

only partially actualise the democratic legitimacy of the nowadays European Union's action. Indeed, during 2000s, something unique happened in the European history.

**An impressive succession of systemic crises, with deep economic downturns, made of the European Union the centrepiece of the policy response and the European Commission were urged to provide answers and solutions. This moved the EU in new territories, not without a certain innovative force.** The EU deals with freedom of expression, misinformation and hate speeches, child protection, access to education, dignity of people in virtual environment, legitimacy of electoral processes, freedom of movement and state-aids regimes. Some ECJ rulings legitimise and, at the same time, mark the new boundaries of EU action - Pringles (on the ESM), RT France (media closure), Hungary (rule of law).

**The limit of the current institutional setting is becoming manifest but unheard and circumvented.** The attempt, in 2024, of the European Parliament to open a revision process of the EU treaties is languishing in the EU institutional rooms. The call arrived from citizens in the Conference on the future of Europe crashed against the intellectual laziness of national political leaders. The same leaders who preferred to circumvent the problem instead of opening a wider reflection on the future of the EU. Proof of that comes from the fact that, at least twice in few years, new treaties were signed to compensate shortages in the current institutional framework, namely the Treaty establishing the European Stability Mechanism, and the so-called Fiscal Compact (not to mention the Europlus Pact, an intergovernmental tool which opens the European Union's action in the field of wage policies, collective bargaining and certain chapters of social spending).

**Everything goes in the direction of the need of a revision of EU institutional architecture.** If the Treaties have not be reopened, notwithstanding the call from the Conference on the Future of Work and the European Parliament vote in favour of the activation of article 48 in 2024, is probably because of lack of political vision and leadership. As it happened in the past, national political leaders' posture at the European Council table is of extreme defence of national interests. It not surely the one of builders of a common future for the EU people. They are prone to harness their mutual mistrusts while resistances persist in foregoing little interests for the overall benefit of European citizens. It is that kind situation that, already in the past, put the European integration process on holds.



From the past, this emerges also from the SHAPE project when investigating the making of the Maastricht Treaty, we also learn that the pressure of historical **events may, at certain point, accelerate the EU integration process and in that moment new ideas for treaty change must be already tested and ready to gather democratic consensus**. Such new ideas must surely include a new social dimension of the EU, and a revamped role for social partners to contribute to the success of the European integration process.

Re-establishing the social contract means that the revision of the foundational rules of the EU founds on current treaties but cannot be achieved through several marginal improvements of current treaties. Or it surely can, but at the condition that a brand-new overarching act legitimates the political authority of the EU in the origins of a European society. A new social contract means that political actors, economic and social players, organised civil society gets together to define their mutual relationships, respective responsibilities, shared values and expectations of each other. The social contract can thus be meant as a tacit agreement among members of a society and this society is now the EU people as unique entity giving itself a constitution<sup>66</sup>. How to get there? Building on what elaborated in this report we can advance a proposal.

**A new social contract should be built around the constitutionalising of the 3 dimensions of progress: peace, social justice, dignity of work.** This reflects a system of values that is wider acknowledged in the UN system and translating into a contemporary set of global principles in the UN2030 Agenda and in most recent ILO Declarations (see also below).

**Elevating this new constitutional chain peace-social justice-decent work would change the results of the current EU policy and law-making.** We might imagine subsidies to private companies – whether under revised state aid regimes or common public procurement frameworks – be subject to the respect of minimum social requirements concerning individual and collective workers’ rights. Administrative requirements may be imposed on businesses right to establish in a MS, provided such requirements protect fundamental labour rights. At the same time, this shift could involve giving the EU a broader mandate to create cross-border social infrastructures and to better balance labour, capital, and technology within the single market (including labour markets). Examples include programs like SURE or new

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<sup>66</sup> Convergence of views is registered with the work done by Friends of Europe, Towards a Renewed Social Contract for Europe, [Renewed Social Contract - Friends of Europe](#)



developments in transnational compensation systems for social protection. Additionally, a new “28th regime” in company law may require an accompanying EU framework for protecting workers’ interests and representation, aligned with the highest standards found in national labour laws. These are examples of material consequences that the proposal wants to achieve advancing a new constitutional pattern based on peace, social justice and decent work.

**As the technological progress accelerates, the way we work, produce and consume changes as well.** The future of work is a conceptual area that is necessary to explore to accomplish the ASPE Group mission. The analytical production of the European Union, aimed at raising awareness on transformations of work, did not find full expression in its legislative and programmatic action. The EPSR stays as the last political programme which gives new breath to social policies in the EU.

**Confronted with a raising ideology that conceives the concept of social beyond the employment relationship, the ASPE group shed light on the fact that the profound transformations of the world of work is one aspect of the deep transformations that our societies are getting through.** European citizens wear more “social clothes” and for this reason they expect to be *recipients* of rights also as consumers, users of public services, and users of the environment and natural resources.

Nothing new. But the programmatic guidelines of the European Commission's 2024-29 programme seem to exacerbate this trend, prefiguring social protection systems that are not nourished by employment relationships (a typical example is housing policies or the protection of the person in the digital economy, or measures against energy poverty) and participatory decision-making that assigns greater value and space to civil dialogue, surreptitiously opposed to social dialogue. The risk (already experienced in the moratorium on social legislation of the “Barroso decade”) is the fragmentation of labour protections in a rapidly changing economy and the marginalisation of social dialogue. The consequence would be a potential increase in inequalities and the fraying of the European social fabric.

**The challenge today is to keep “labour” at the heart of the EU social policy because it is *in their jobs* that people continue to find the primary source of income and *at work* the fulfilment of their personalities.** If it is true *labour* is supposed to remain central in our societies and remain prominent in the future of

social policies. It confirms major trends that lead to the transformations of work (green+digital+demography), with some innovative elements identified in the socio-cultural transformations of our society.

**The group identifies two other areas that may be encompassed in the concept of future of work. They reflect the profound and often traumatic societal transformations accelerated by a global financial shock, a pandemic, and war on the European territory.**

- a. A creeping social conflict with **latent violence** is underway. The hard-to-win struggle against inequality unhinge the social fabric in which wage-earners (the middle class?) have historically been better off.
- b. Pressure on working conditions is fuelled by a **mobility of labour** that does not only walk on the legs of workers (or companies that post them abroad) but also on the bits of internet connections (growing offer of low-cost remote work from abroad).
- c. In addition, society seems to be ready to understand and protect the multi-dimensional formation of **diversity**, opening a promising phase of construction of a European antidiscrimination body of laws that has allowed the advancement of individual rights also in the workplace and in the labour market.

**The multiple driving forces of future of work suggest that the European Union will be called upon to legislate in new areas, with more efficient and effective legislative processes, respectful of horizontal subsidiarity. It implies a more solid anchorage to fundamental social rights, better if updated to factor in major changes in the world of work.** The ASPE Group stresses that the European Union will be called upon to legislate quickly before national systems move in diverging directions, namely, to regulate just transition and new digitalised forms of work and occupational welfare schemes for an ageing population. It will have to do so with more efficient legislative processes starting with the use of qualified majority voting and a wider use of regulations and decisions. It will have to enhance legislative techniques that include horizontal subsidiarity, among which the necessary provision for a European collective agreement stands out. It will have to rewrite the scope of the principles of proportionality and subsidiarity. A corollary of these indications is the consolidation of the fundamental rights in the European legal system.

**In this evolutionary progress of the European labour system, the European social dialogue may find a new configuration based on a new pact between social partners that has its heart in the management of labour transitions.** This can be reflected in the program of European social partners (so the ones of sector social dialogue committees) which can better grasp common interests, commitment and ownership of all social partners which holds the responsibility to animate social dialogue at EU level. It must be aimed at the autonomous regulatory capacity of the social partners on typically transnational matters. The constitutional chain peace-social justice-decent work seem to serve well this objective as well.

## 5.2 THE ANCHORING OF THE EUROPEAN LEGAL SYSTEM TO FUNDAMENTAL SOCIAL RIGHTS

**The ASPE Group believes that the legal system has consolidated a body of fundamental rights, the heart of which is the heritage of common constitutional provisions, the culmination of which is represented by the Charter of Nice of 2000, the horizon of which is accession to the European Convention on Human Rights.** If the Charter of Nice has been able to impose itself as a binding instrument, albeit within the limits of the functioning of the European legal system, the sometimes-controversial relationship between the ECHR and the ECJ has been able to provide a reliable, but not so stable, anchor to the European legal order and that of its member states. The ILO, its normative production and the most recent Declarations was also brought forward as a strong anchorage of the EU to social fundamental rights.

**At the same time, the anchorage of the EU legal order (including those of its member states) to social fundamental rights is shackled by global disorders and transforming nature of work.** Some case law<sup>67</sup> underline the need to strengthen the anchoring of the European and national legal systems to a less fragmented and more precise catalogue of fundamental rights. The European Pillar of Social Rights only

<sup>67</sup> See Court of Justice of the European Union (CJEU), Viking Line ABP v. International Transport Workers' Federation and Finnish Seamen's Union, Case C-438/05, ECLI:EU:C:2007:772; Laval un Partneri Ltd v. Svenska Byggnadsarbetareförbundet, Case C-341/05, ECLI:EU:C:2007:809; Dirk Rüffert v. Land Niedersachsen, Case C-346/06, ECLI:EU:C:2008:189; Commission v. Luxembourg, Case C-319/06, ECLI:EU:C:2008:350; and European Federation of Public Service Unions (EPSU) v. European Commission, Case C-928/19, ECLI:EU:C:2021:1006. See also Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union, OJ L 275/33, 25 October 2022.

partially offset such shortcomings being mainly a compass for policy making in the social field. This is not enough. In the rush for competitiveness, security, strategic autonomy and preparedness, we have overhauled the traditional taxonomy of fundamental values. It is no longer clear what workers' protections must be subtracted from the competition game in rapidly evolving markets and, on the other, there is no unanimous consensus on the values that the European institutions are called upon to translate into real protections for the benefits of their citizens. A reinforced catalogue of social fundamental rights is thus necessary.

**As matter of fact, the Union's legal system cannot provide a haven for the fundamental rights of work and workers in every corner of the Union.** Examples of this are the cases concerning the exercise of the right to strike in some EU countries and (in addition to the judgments cited above) the EPSU or Vorstand der O Holding SE cases, demonstrating that the current framework of fundamental rights is inadequate to include collective procedural rights as a tool to remove inequalities or to promote social progress objectives through collective bargaining and collective action. The need to assess some limitations of the European Charter of Fundamental Rights was recalled, such as Article 51 which excludes the extension of the Union's competences. A few contradictions cannot be excluded, which have already emerged during the 2000 Convention, when the difficult coexistence of the rule that denies the Charter the power to extend the competences of the Union and the call on national courts to promote the Charter and its principles, was emphasised without achieving a final resolving word.

**Furthermore, a potential transformation of the historically constructive dialogue between national constitutional courts and the European Court of Justice is identified** to the extent that, in the face of the expansion of the Union's action, a dialectical attitude is developed on the principle of primacy of European law over national law, precisely in the reference to the essential mission of national constitutions to protect the fundamental rights of citizens <sup>68</sup>[references bibliography].

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<sup>68</sup> The ASPE group limits its intervention in this topic to a mention that raises the existence of a debate and refer to more in-depth and authoritative studies to catch the entity of issue. See also the extensive elaboration made by Silvana Sciarra, which includes Silvana Sciarra, Corti a confronto Giudici europei e giudici nazionali per una sovranità condivisa, il Mulino 2025; Silvana Sciarra, "First and Last Word: Can Constitutional Courts and the Court of Justice of the EU Speak Common Words?", in Eurojus, n. 3/2022; anche come Working Paper C.S.D.L.E. "Massimo D'Antona" INT-159/2022

Furthermore, the European Union's action to promote fundamental human rights recognised in international forums such as the UN, ILO and OECD, for example through a directive on due diligence, is the subject of strong criticism that effectively wants to denounce the universality and direct applicability of these requirements to market players such as companies, *corporations*, workers' organisations and civil society representatives.

**Added to these critical issues is the security agenda on which the European Union finds itself having to legislate, in particular about the profound impact of new technologies on the formation of public opinion, public speech and freedom of expression.** This is an area in which the European Union intervenes with the risk of leaving the institutions to act in a territory that is crucial for the protection of the dignity of the person and freedom without a safety net of a complete and fully implementable catalogue of fundamental rights.

**The experts noted the ability of “economic constitutions” to advance at the expense of “social constitutions” and this may harm the EU integration process.** Even in recent judgments of the European Court of Human Rights, a certain disenchantment can be perceived in those who do not share the dominance of the logic of the market in the management of public affairs. What is compromised is not so much the Union's ability to carry out its mission (Article 3) but the Union's propensity to be guided by the need to impose common values (Article 2 TEU) in a game in which the interests of the market tend to prevail over the interests of citizens in their most socially relevant guise.

**Therefore, paths that include the constitutionalising of new rights relating to the changing world of work and the natural expansion of the Union's areas of action cannot be excluded.** The relationship between EU law and the ECHR can facilitate the penetration of the ILO's international labour standards into European and national legal systems. In the drift of multilateralism, the ILO can act as a point of reference for all national systems in transformation, as demonstrated, for example, by some solemn declarations among which the International Labour Organization Declaration on Fundamental Principles and Rights at Work and its sequels, 1998 and updated in 2022, stands out. This led to reflection on the effects that recent geopolitical developments to which the ILO tries to respond with the Global Coalition for Social Justice.

The reflection on the ILO current and future prerogatives, prompts ASPE to raise attention to the crowding of international standards and fundamental principles or rights that risk diluting the universal and globally recognized scope of a series of values into principles in which all humanity can identify. Among these is the need to **adapt the system of protection of the dignity of work to the digital revolution**. Divided into 6 chapters, the European Declaration on Digital Rights and Principles for the Digital Decade (2023/C 23/01) envisages a catalogue of fundamental rights related to the impact on fair and equitable working conditions, but the forms of solidarity and inclusion in the digital society is broader.

**As matter of conclusion, some guidelines are identified to face a path that links the entire European legal system to fundamental rights.** The risks to be mitigated are:

- The crowding of fundamental principles and values risks losing sight of the centrality of work and the dignity of the person at work.
- The dilution of the common fundamental values crystallized in national constitutions, which is accompanied by the unprecedented democratic drift of some member states, the electoral success of forces that do not have democracy and the *rule of law* as their centre of values.
- The end of multilateralism, in addition to shaking international institutions with charters of fundamental rights, entails the inability to legislate or promote common fundamental standards in areas concerning the future of work.

**It therefore envisages the creation of a taxonomy of fundamental rights that can bring the protection of work and its dignity back to the centre of the political agenda to confirm the solemn principle that lasting peace is built on social justice.** In a proactive attitude, the ASPE Group believes that

- a. The European social model, and with it the resilience of the European integration process, must be enhanced and competition between social and economic must be removed. **It therefore recommends reaffirming the dignity of work and full employment as fundamental values of the European Union**, for example by acting on Article 2 TEU.
- b. In the wake of fundamental and universal values, **combine peace with social justice as foundation of the three missions entrusted to the European**

**Union**, namely the area of justice and freedom of movement, the internal market and the single currency.

- c. Broaden the scope of the European Union to formulate a body of **legislation for just transitions**.
- d. To make the fundamental principles of **digital labour regulation** a pillar of the European legal system.

## 6. PROPOSALS TO CHANGE THE TREATY ON THE EUROPEAN UNION

### TEU Article 2: VALUES OF THE EU

**In the current geopolitical turmoil, on the brink of a global conflict, humanity should firmly uphold the fundamental principles that unite people worldwide,** those principles agreed upon within their international and multilateral institutions. According to these values, the human aspiration to consolidate peace is deeply rooted in the tireless pursuit of social justice. It can also be said that social justice is a direct expression of the right to peace. This principle applies equally to the European Union and its integration process.

**If peace has been preserved over the decades through social justice, there is broad consensus that social justice is intrinsically linked to decent work,** the contractual arrangements that govern it, and the dignity of those who work. This reflects the legacy of the UN family, and namely the ILO, which, in shaping fundamental laws, emphasizes the strong connection between peace, social justice, and the dignity of work. The association between peace and social justice cannot be reduced to a mere self-imposed abstention from warring behaviours. It is more than that; it is a positive right that compels democratic public authorities to conceive of peace as a space in which rights, freedoms, and justice can flourish, grounded in a logic of continuous improvement in people's working and living conditions (this is social progress).

**In the EU, this vision implies the development of a new legal order that places the dignity of work and equal treatment of all citizens at the heart of its mission.**

Translated into a renewed institutional architecture of the EU that fits for the future, it means elevating decent work (being in employment as a guarantee of dignity), sustainability (preserve the planet and its resources for future generations of workers), tolerance (towards all types of diversity), dialogue (in the open and inclusive exercise of public powers), cooperation (among all societal actors) and solidarity (trust in the fairness of the economic model) at the foundations of the 3 missions of the EU when establishing a space of freedom, security and justice, an internal market and the single currency, the Euro.

Article 2 TEU



The Union is founded on the values of respect for human dignity, freedom, democracy, equality, **social justice, sustainability**, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, **decent work**, solidarity and equality between women and men prevail.

**Member states accept the rule of law as fundamental value ensuring that every person who live and work in the EU is treated in the respect of the EU fundamental values and collaborate sincerely and effectively in the realisation of the aim of the Union as specified in Article 3.**

These amendments inspire a new taxonomy of the EU's fundamental values. The EU, in fulfilling its missions, has both the task and the duty to transform these values into concrete rights for all who live and work within the EU, making them an integral part of European citizenship, and thus enforceable within the Union and protected beyond its borders. From here, the relevance of rule of law extends beyond the mere defence of economic interests of the Union and is the precondition for the actual enjoyment of fundamental values including those which fundamental social rights stem from.

## TEU Article 3: MISSION

**This implies that article 3 should reflect a new institutional arrangement in which peace, social justice and decent work are the ultimate aim of a political community that comes together to create an area of freedom, justice and security, to empower a single market for competitive enterprises, to preserve the planet for future generations and to set their common destiny in a single currency.** While each of the traditional missions of the EU implies a specific role for social policies, some societal boundaries (including environmental concerns) should be conceived as overarching, as they directly express the constitutional chain *peace-social justice-dignity of work*.

A new paradigm of the European integration process **would bring fresh energy to the EU action.** As the recent historical events demonstrate, the current market-centric integration model ends up being an obstacle to a full political integration of the EU. The EU showed to be strong on social progress but weak on social justice. Long term economic performance of the EU shows that people's well-being improved along the

decades, but social justice goes beyond metrics and data. It is not just about measuring the economic status of individual citizens. It encompasses equality of opportunity, access to quality education, decent jobs, protection from life's adversities, and living in a sustainable environment. It concerns common goods – beyond the single market and the Euro – that give full meaning to EU institutions. Social justice gives direction as society evolves under the impact of technological advances or demographic shifts, not only from an economic resilience perspective, but primarily from the standpoint of civic growth and societal unity.

**Elements of social justice appeared in the Constitutional Treaty drafted and later rejected in 2003.** The new millennium has made it clear that no single Member State can face today's challenges alone. This was reaffirmed by Member States in the Versailles Declaration of 2022, when the Russian threat overlapped with the pandemic crisis. **The future of the EU is in the hands of those who will strike a new balance in the patterns of EU integration.** The continued attempt to rebalance the redistribution gaps of the single market is a monumental task, unless changing the foundational principles of the EU that makes social progress a component of social justice and not the trickling down effect of sustained economic performance that continuously stresses the limits of the planet and the resilience of our societies.

Pro-European voices may also propose that social progress is a corollary of social justice and dignity or work and article 3 is thus amended as follows:

PREAMBLE

- **moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world,**

TEU: Article 3

1. The Union's aim is to promote **lasting** peace, **based on social justice**, its values and the well-being of its peoples, **and with a view to attaining the objectives of social progress, human dignity, well-being and personal development of people in conditions of freedom and dignity, in life as at workplace, of economic security and equal opportunity.**

2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.

**3. In the respect of its values, the** Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.

It shall promote economic, social and territorial cohesion, and solidarity among Member States.

It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.

**4. The currency of the EU is the Euro.** The Union shall establish an economic and monetary union whose currency is the euro, **for a competitive economy, full employment, quality public services, and the continued improvement of the living and working conditions of its people .**

*[Alternative text: 4. **The currency of the EU is the Euro.** The Union shall establish an economic and monetary union whose currency is the euro **securing to their populations the social rights enshrined in [mention here relevant Charters of fundamental rights]** to improve their standard of living and their social well-being: [European Social Charter].*

5. In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens.

6. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Treaties.

It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of

poverty and the protection of human rights, particularly the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter. **It shall contribute to peace, promoting social, economic, environmental and security of its population, pursuing a holistic approach to the achievement of Sustainable Development Goals of the UN.**

## TEU Article 4 - 10: Economic governance of the EU.

The legislative framework of economic governance does, in fact, encompass social objectives and recognizes the role of social partners but it does not establish a solid and permanent framework to pursue the intertwined objectives of social policy, cohesion policies and social dialogue. **Regulation (EU) 2024/1263** is a clear example. The **European Pillar of Social Rights (EPSR)** promotes the upward convergence of working and living conditions. The coordination of **Multiannual Financial Framework (MFF)** expenditure through the **European Semester** connects economic governance with territorial and social cohesion.

**However, it is evident that the social dimension of the EU's economic governance remains secondary to fiscal stability and macroeconomic convergence.** This imbalance has often led many practitioners to question whether it is truly possible to align the EU's monetary, economic, and social policy objectives<sup>69</sup>. **The EPSR is elevated to a Treaty relevant policy tool which is conceived as a "living" document that can evolve along the years but remains a landmark of the EU social space.**

The lack of trust between Member States – manifested, for example, in treaty provisions that prohibit fiscal transfers – has contributed to relegating social objectives to the background of the European Semester's priorities. This is one reason why **social partners** continue to struggle to find meaningful involvement in recent programs that support EU reform and investment policies, even when these programs clearly impact how we work, produce, and consume.

In the light of this experience, the following amendments do not aim at reforming the architecture of the fiscal multilateral surveillance of the EU (which would be surely

<sup>69</sup> See, for instance, Buti M., Messori M., Rethinking the European Union: Economic Governance and the Social Dimension, European University Institute, Florence, 2023; Buti M., Dierick B., Economic Governance and Social Europe: Reconciling Fiscal Discipline with Social Progress, European Commission Discussion Paper 171, Brussels, 2022.

necessary) but focuses on the reinforcement of the social dialogue and the EPSR in the overall cycle of coordination of fiscal, economic and social policies of the EU.

Article 4 bis of the TEU, is needed to introduce such principle in the TEU reflecting a need that already emerged during the works of the European Convention.

#### Article 4 bis

- 1. The Union shall adopt measures to ensure coordination of the economic policies of the Member States, by adopting broad guidelines for these policies. The Member States shall coordinate their economic policies within the Union.**
2. Specific provisions shall apply to those Member States which have adopted the euro.
- 3. The Union shall adopt measures to ensure coordination of the employment policies of the Member States, by adopting guidelines for these policies aimed at achieving an upward convergence of working and living conditions of people.**
- 4. The Union shall adopt initiatives to ensure coordination of Member States' social and environmental policies with the aim to eliminate poverty and ensure equal opportunities to the development of personality and professional abilities of young people.**

The principle of involving social partners in shaping EU social policies through its governance mechanisms reflects a broader commitment to participatory democracy. This concern was highlighted both during the work of the European Convention and by the European Parliament in 2024. The latter proposed an amendment to Article 10 of the Treaty on European Union (TEU), while the European Convention had previously proposed the inclusion of a new Article 11, which aligns well with the new central focus of the EU as outlined in the proposed amendment to Article 3 TEU.

#### TEU, Article 10

1. The functioning of the Union shall be founded on representative democracy.
2. Citizens are directly represented at Union level in the European Parliament. Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens
3. Every citizen shall have the right to participate in the democratic life of the Union.

3a. Decisions shall be taken as openly and as closely to the citizen as possible [European Parliament]

4. Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.

4a. **Social partners shall be consulted in the preparation of any initiatives in the areas of social, employment and economic policy.**

TEU, Article 11 [from the text of the EU Constitution]

1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.

2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.

3. The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.

**4. The European Union recognises and promotes the role of the social partners at Union level, taking into account the diversity of national systems; it shall facilitate dialogue between the social partners, respecting their autonomy.**

## PROPOSALS TO CHANGE THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

The amendments proposed above must be reflected in the Treaty on the Functioning of the European Union.

### TFEU, Article 119: UPWARD SOCIAL CONVERGENCE

To give real operational scope to social policies and social dialogue, economic governance must adopt full employment as a convergence criterion applicable across economic, fiscal, and monetary policies. Common objectives should support the implementation of the European Pillar of Social Rights (EPSR) within a Social Convergence Framework, in which instruments like the Employment Guidelines and the Social Scoreboard are given new momentum. These changes would gain broader significance if MFF (Multiannual Financial Framework) expenditure were more extensively subject to country-specific recommendations derived from the European Semester [Reference will be made to EC proposal on the 16<sup>th</sup> of July].

The main changes should therefore apply to the fundamental rules of **economic governance**, rather than solely to **Title IX on Employment**. However, both domains must work in synergy. Greater consistency is needed between employment and economic policies to ensure they mutually reinforce each other.

#### Article 119 TFEU

For the purposes set out in Article 3 of the Treaty on European Union, the activities of the Member States and the Union shall include, as provided in the Treaties, the adoption of an economic policy which is based on the close coordination of Member States' economic policies, on the internal market and on the definition of common objectives, and conducted in accordance with the principle of an open market economy with free competition **that aims to achieve full employment and social progress.**

## Article 145 TFEU: labour transitions

Full employment is only one element of a rebalanced economic governance. The EU should be given a clear mandate to develop policies that co-regulate or guide decisions on workers' protections in the context of technological change and labour transitions. Expanding the scope of EU action in these areas is essential, provided that this broader competence is fully framed within:

- i) a new, reinforced capacity for social partners to participate;
- ii) a stronger anchoring of EU legal frameworks in fundamental labour rights; and
- iii) the full recognition of social objectives as integral to EU economic governance.

### Article 145 TFEU

Member States and the Union shall, in accordance with this Title, work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce, **able to take pace with technological developments,** and **inclusive** labour markets responsive to economic change, **economic and labour transitions with** a view to achieving the objectives defined in **Article 3** of the Treaty on European Union.

## Article 148 TFEU: social dimension of the EU Semester and social convergence framework

At this point we have created a situation in which the economic governance can operate for *full employment*, giving greater attention to two regulatory challenges concerning *innovation and labour transitions*, seeking greater support from *social partners* in their capacity of policy makers and (not only legislative proposals but also) transmit policy decisions from the EU to national levels.

Article 148 TFEU is the appropriate provision where such advancements can be systemically and conclusively designed. Changes proposed below have the only task to make article 120, 122 and 126 TFEU consistent with the new constitutional centrepiece set in article 3. The Social Convergence Framework is not entirely new—it is already referenced, albeit partially legitimized, in Regulation 2024/1263 and has been integrated into the 2025 European Semester cycle. However, ambiguity persists regarding its nature, as it sits halfway between a monitoring/analytical tool and a policy-driving mechanism. It is crucial that the Social Convergence Framework is granted the same legal footing in the TFEU as other coordinated policies within the European Semester.



The main innovation lies in the provision that allows social partners in the relevant Member States to jointly submit proposals addressing social challenges identified within the Social Convergence Framework. This would significantly enhance the promotional value of social dialogue and substantially strengthen the democratic legitimacy of the European Semester process. Once again, this prerogative must be firmly tied to the social objectives of upward convergence in working and living conditions and must recognize the European Pillar of Social Rights (and its Action Plans) as the overarching social programme of the EU.

**The EPSR is elevated to a Treaty relevant policy tool which is conceived as a “living” document that can evolve along the years but remains a landmark of the EU social space.**

Article 148 TFEU

1. The European Council shall each year consider the employment situation in the Union and adopt conclusions thereon, based on an annual report by the Commission **containing information from the reports referred to in paragraph 3.**
2. On the basis of the conclusions of the European Council, **the European Parliament and** the Council, on a proposal from the Commission and after consulting the Economic and Social Committee, the Committee of the Regions and the Employment Committee referred to in Article 150, shall each year draw up guidelines which the Member States shall take into account in their employment policies. These guidelines shall complement the broad guidelines adopted pursuant to Article 121(2) **[and aim to ensure the implementation of the European Pillar of Social Rights proclaimed by the European Parliament, the Council and the Commission in 2017 at the Gothenburg Summit.]**
3. Each Member State shall provide the Commission with an annual report on the principal measures taken to implement its employment policy in the light of the guidelines for employment as referred to in paragraph 2.
4. The European Parliament and the Council, since the reports referred to in paragraph 3, shall each year carry out an examination of the implementation of the employment policies of the Member States in the light of the guidelines for employment. **The European Parliament and** the Council, on a recommendation from the Commission, may, if they consider it appropriate in the light of that examination, make

recommendations to Member States as result **of a process aiming to upward social convergence of which in article 121.**

5. On the basis of the results of that examination, the Commission shall make an annual report to the European Parliament and to the European Council on the employment situation in the Union and on the implementation of the guidelines for employment.

**6 NEW: A social convergence framework is set up to monitor development of member states in such policy areas pointed out in the broad economic guidelines and the employment guidelines of which in par. 2. In occasion of the annual report of which in par. 3, [Joint Employment Report], the European Commission and the employment committee, after prior-consultation with the European social partners, monitor the consistency of member states performances on the basis of the objectives in par. 2 as well as according to the common objectives of full employment, upward convergence of working and living conditions, and fight against poverty.**

**7. NEW: On the basis of the analyses of which in the previous paragraph, the Council, on proposal of the Commission and Employment Committee, having consulted the national representative social partners, may address recommendations to member states in the framework of the prerogatives of which in article 121.4. If they wish so, representative national social partners may decide to submit to the European Commission and the Employment Committee, in due time, common proposals, under the form of joint letter, to address challenges identified in the process of the social convergence framework. The Commission and the Employment Committee shall transmit the proposals of the representative social partners to the Council in the framework of the proposals for recommendations submitted to the Council.**

## TFEU Article 151: Social Fundamental Right

A strengthening of the EU's capacity to promote and enforce fundamental rights is linked to the expansion of its scope of action and the increased use of qualified majority voting. It is also driven by recent episodes of democratic backsliding in some Member States and by concerns raised by certain constitutional courts, which have begun to question the hierarchy between European and national legal sources.

This proposal is specifically limited to reinforcing the anchoring of the EU legal order in support of social policies and the role of social dialogue, as a contribution to embedding the new constitutional nexus between peace, social justice, and decent work. It does not aim to fulfil the broader need to fully ground the EU legal system in fundamental rights.

As history teaches, the EU social model is subject to continuous political stress and economic shocks. For that reason, during the Conference on the Future of Europe, the proposal from the trade union movement for a **Social Progress Protocol** was adopted in the COFOE conclusions and taken up by the European Parliament in its Resolution asking the activation of article 48 for the revision of EU Treaties. **The objective is to maintain a policy tool that guarantee the new balance stroke by the implementation in the EU treaty of the constitutional pattern that puts peace, social justice and social progress at the core of the EU mission.**

The European Declaration on Digital Rights and Principles for the Digital Decade is hereby used as placeholder for a full-fledged catalogue of fundamental principles concerning digital and technological advancement at workplace and in the employment relationship. The European Parliament, the Council and the Commission solemnly proclaimed the Declaration on Digital Rights and Principles for the Digital Decade in 2023 but its labour-related contents could be surely enriched if submitted to close consultation with social partners.

#### Article 151

The Union and the Member States, having in mind fundamental social rights such as those set out in the revised European Social Charter signed at **Strasbourg on 3 May 1996**, in the 1989 Community Charter of the Fundamental Social Rights of Workers, the **European Declaration on Digital Rights and Principles for the Digital Decade**, and in particular its Chapter II, and in the Charter of Fundamental Rights of the European Union, shall have as their objectives the promotion of employment, improved living and working conditions, support workers during labour transitions, and ensures high level of protections to workers hit by technological advancements, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion with a view to lasting high employment and the combating of exclusion.

To this end the Union and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Union economy **and it does not create harm to the implementation of the European Pillar of Social Rights, the programmes implementing it and to the process of upward convergence of working and living conditions of Europeans.**

They believe that such a development will ensue not only from the functioning of the internal market, which will favour the harmonisation of social systems, but also from the procedures provided for in the Treaties and from the approximation of provisions laid down by law, regulation or administrative action.

**Specific provisions relating to the definition and implementation of social progress and the relation between fundamental social rights and other Union policies shall be defined in a protocol on Social Progress in the European Union annexed to the Treaties.**

## TFEU Article 152. CROSS-BORDER CONTRACTUAL ARRANGEMENTS

In the light of the integration of the single market, and the capacity of businesses and workers to get organised and maximise their economic return of their cross-border operations, labour negotiations must match that scale. A structured EU framework would empower workers' representation at the right level.

The EU legal system seems to accompany such economic trend adapting company law, with a cross-border industry policy and deepened single market. The real capacity of social partners to engage in cross-border contractual arrangement seem to be may scale up the regulation of matters that are at the core of present and future EU policies such as employment transitions and reskilling, health and safety, gender equality and inclusion, work-life balance, company-wide commitments to sustainability,

A promotional framework would help ensure these eventual cross-border agreements are not just symbolic but operational and enforceable, supporting fair outcomes for worker. However, the definition of a set of rules that promote cross border collective agreements can only be produced by social partners in the search of an equilibrium between the need to offer collective bargaining coverage to all European workers and to protect most advanced systems from possible lowering of acquired rights and opportunities.

Lessons from the past are key. It is not in the remit of the EU institutions to constrain social partners into heteronomous legal frameworks. What is in the EU legitimate interest is to support social partners with the exploration of features of a new regime of industrial relations that may result in cross-border contractual arrangements that have direct effects on workers and enterprises, in matters that strictly concern the social partners, and that are applicable only when manifestly improving standards set in lower collective bargaining levels.

#### Article 152

The Union recognises and promotes the role of the social partners at its level, considering the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.

**NEW: The Union promotes cross-border contractual arrangements between European Social partners. It encourages European social partners to establish frameworks in which their relationships may result into contractual arrangements that supports the objectives of which in article 151.1 and are uniformly applied on the EU territory, proved that it does not create harm to levels of protection that national systems and/or practices grant to workers and it does not harm the smooth development of national practices of collective bargaining and industrial relations.**

The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue.

### TFEU Article 153: COMPETENCES DRIVEN BY FUTURE OF WORK.

The following items will likely be in the pipeline of the EU legislative work (following intentions of EU institutions and social partners). They represent areas where a raising of minimum common standards is urgent or desirable. The following list is drafted referring to what appears in the European Commission programme 2024-2029, in the mandate letter of the European Commissioners, in the legislative train of the EU, in the prominent demands of the European Trade Union movement and other stakeholders.

For what the raising of minimum standards are concerned: Right to disconnect, telework, and remote working, working nomads; a Just Transition Directive; a quality traineeship directive; employment regime of platform workers; right to receive vocational training; financing and solidarity in work-life balance policies; men and

women equality and *gender* equality; cross-border legislative frameworks for corporate governance and implications on collective bargaining and workers participation; women participation in the labour market (as matter of justice at large and not employment policy).

To balance the stability and growth pact: insurance schemes for childcare, adequate pensions, and family support, right to receive training and Life-Long learning opportunities; avoiding career interruptions for women with small children; promoting dual earner families; gender-equal parental leave; smoothing transitions from study to first job.

With reference to the deepening of the single market: Labour related aspects of Artificial Intelligence; Labour related issues of data protection and privacy; EU-level Pension funds; Social protection and portability of rights; Labour market services, such as academies, matching services; Derogations to social and environmental provisions in presence of economic objectives of higher interest (OSA regulations) and social conditionalities; wage formation in sectors in which cross-border employment relationships are dominant or systemic; Corporate governance, due diligence and other patterns related to sustainable finance; role of information, consultation and participation in planning, issuing and use of proceedings of sustainable finance securities.

Of course, this cannot be a complete list of topics on which the EU will likely be called to legislate upon. It shows that the future of work calls for a capacity to legislate to maintain a balance between social, technological and social advancements.

#### Article 153

1. With a view to achieving the objectives of Article 151, the Union shall support and complement the activities of the Member States in the following fields:

(a) improvement in particular of the working environment to protect workers' health and safety;

(b) working conditions, **including formation of minimum pay levels, except wage level setting and in respect of autonomy and freedom of social partners to set wage levels through collective bargaining.**

(ba) **just transition and anticipation of change and adaptation of working conditions to technological development**

**(bb) without prejudice to articles 165 and 166 TFEU, strengthening training and education programmes of employees;**

(c) social security and social protection of workers;

(d) protection of workers where their employment contract is terminated;

(e) the information, consultation **and participation** of workers;

(f) representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 5;

(g) conditions of employment for third-country nationals legally residing in Union territory;

(h) the integration of persons excluded from the labour market, without prejudice to Article 166;

**(i) the promotion of gender** equality with regard to labour market opportunities and treatment at work;

(i bis) work life balance and welfare at work

(j) the combating of **poverty and** social exclusion, **and the supporting of social housing;**

(l) the modernisation of social protection systems without prejudice to point (c)

2. To this end, the European Parliament and the Council:

(a) may adopt measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, excluding any harmonisation of the laws and regulations of the Member States;

(b) may adopt, in the fields referred to in paragraph 1(a) **to (k)**, by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way



which would hold back the creation and development of small and medium-sized undertakings.

The European Parliament and the Council shall act in accordance with the ordinary legislative procedure after consulting the Economic and Social Committee and the Committee of the Regions.

3. A Member State may entrust management and labour, at their joint request, with the implementation of directives adopted pursuant to paragraph 2, or, where appropriate, with the implementation of a Council decision adopted in accordance with Article 155.

In this case, it shall ensure that, no later than the date on which a directive or a decision must be transposed or implemented, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure, **including, at request of most representative social partners at national level, extending the effects of the measures established by agreement**, enabling it at any time to be in a position to guarantee the results imposed by that directive or that decision.

## TFEU Article 154: safeguard clauses

Such challenges to be properly addressed at EU level, a change of pace is needed in the EU legislative capacity. Such new capacity pass through the redefinition of subjects of competence of the EU and an extensive use of qualified majority voting, proved that the EU has a reinforced anchorage to labour fundamental rights and in presence of a non-regression clause as strong as the new legislative capacity of the EU that impedes that EU legislation may threaten most advanced systems.

### Article 154

...

4. The provisions adopted pursuant to this Article:

— 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,

— shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Treaties.

**- shall not constitute valid grounds for lowering the level of protection already accorded to workers in the Member States, [European Parliament]**

**5. The provisions of this Article may apply to right of association and the right to strike ~~or lock-outs~~ for the only purpose of promoting the EU fundamental rights of which in article 151 TFUE and promoting EU values in Article 2 of the TUE, in respect of core ILO Conventions 87 and 98. [SHAPE]**

## Article 155, reinforced legitimacy of agreements concluded at Union level

Changes in article 155 are just a consequence of those made in previous articles

### Article 155

1. Should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including **transnational** agreements. [SHAPE]

2. Agreements concluded at Union level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 153, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission, **after consulting the European Economic and Social Committee and after obtaining the consent of the European Parliament.**

PARTNERS:



ASSOCIATES:



# ShAPE



THE SOCIAL PARTNERS AS  
SHAPERS AND MAKERS OF  
SOCIAL EUROPE:  
DISCOVERING FOUNDATIONS  
AND FUTURES



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