



SOCIAL FAIRNESS PACKAGE 2018
EAPN Briefing for Members

March 2018

Useful links and information

Press release on the launch of the Package:

- http://europa.eu/rapid/press-release_IP-18-1624_en.htm

Main document:

- [Communication: Monitoring the implementation of the European Pillar of Social Rights](#)
- [Staff Working Document accompanying the Communication](#)

Accompanying proposals:

Access to Social Protection (non-legislative)

- [Proposal for a Council Recommendation on access to social protection for workers and the self-employed](#)
- [Stakeholder consultation - Synopsis report accompanying the Proposal for a Council Recommendation on access to social protection for workers and the self-employed](#)
- [Impact assessment accompanying the Proposal for a Council Recommendation on access to social protection for workers and the self-employed](#) and [Executive summary of the Impact Assessment](#)

European Labour Authority (legislative)

- [Proposal for a Regulation establishing a European Labour Authority](#)
- [Stakeholder consultation - Synopsis report accompanying the Proposal for a Regulation establishing a European Labour Authority](#)
- [Impact assessment accompanying the Proposal for a Regulation establishing a European Labour Authority](#) and [Executive summary of the Impact Assessment](#)
- [Commission Decision on setting up the European Advisory Group for the European Labour Authority](#)
- [Opinion of the Regulatory Scrutiny Board: Impact Assessment – The European Labour Authority](#)

Additional information:

- [Factsheet: European Pillar of Social Rights](#)
- [Memo: Questions & Answers on the Commission's proposal to improve access to social protection for all workers and the self-employed](#)
- [Factsheet: European Pillar of Social Rights: Access to social protection for workers and the self-employed](#)
- [Memo: Question and Answers on the European Labour Authority](#)
- [Factsheet: European Pillar of Social Rights: Towards fair labour mobility: Setting up a European Labour Authority](#)

Background

The Social Fairness Package, released on 13 March 2018, is the only social policy measure foreseen in the European Commission Work Programme for 2018, and has been described as *'the last major social initiative of the Juncker Commission'*. Its explicit purpose is to be a next step in the implementation of the European Pillar of Social Rights, formally adopted by Member States, as well as by the three EU institutions (Commission, Parliament, and Council) on 17 November 2017.

The main elements of this Package are: an overarching communication about the monitoring of the implementation of the Pillar, and proposals on extending access to social protection to all workers and establishing a European Labour Authority. The two latter are based on public consultations, carried out at the end of 2017. Reports of the responses to these are also part of the Package (see below). A third proposal, on a European Social Security Number, has been delayed to later this year. This Briefing provides an overview of the main proposals (soft and hard law) and an initial assessment of each.

EAPN action so far

- [Comprehensive position paper](#) on the European Pillar of Social Rights (*Make Social Rights the Beating Heart of Europe!*), with EAPN analysis and Key Messages
- Council Recommendation: *Access to Social Protection for All Workers* - response to the public [consultation](#); attended stakeholder dialogue)
- Regulation establishing a European Labour Authority - attended stakeholder dialogue
- Adoption of an [EAPN Action Plan](#) on the European Pillar of Social Rights 2018 (building on the one for 2017), including the Social Fairness Package – advocacy and next steps

Overview of the Package

- **SOFT LAW – Communication on Monitoring the Implementation of the European Pillar Of Social Rights:** The Commission sees the main implementation of the Pillar a Member States responsibility, monitored through the European Semester. Marianne Thyssen named the 2018 one (particularly the Country Reports) *"the most social European Semester ever"* (press statement on the Social Fairness Package).
- **SOFT LAW – Proposal for a Recommendation on access to social protection for workers and the self-employed:** Non-standard workers (on limited duration, part-time contracts) and the self-employed make up 40% of the workforce, and they are often excluded from joining, accruing, receiving, and transferring social security entitlements – hence a proposal to remedy that is part of the Package.
- **HARD LAW – Proposal for a Regulation establishing a European Labour Authority:** The ELA is supposed to be a permanent structure, with a two-fold objective: to make mobility easier, and to fight fraud and abuse, through facilitating access to information and rights, as well as strengthening cooperation between national authorities.
- **HARD LAW? - The digital European Social Security Number** (which was also one of the key demands of the European Meeting of People Experiencing Poverty in 2017) is expected to be launched later this year, and the Commission is currently investigating options, together with stakeholders.

Communication on Monitoring the Implementation of the European Pillar of Social Rights

Context

- Reaffirms that the European Pillar of Social Rights is supposed to be *a compass for a renewed process of upward convergence* towards better working and living conditions in the European Union.
- Quotes the conclusions of the European Council of 14 December 2017, which state that *the European Pillar of Social Rights should be implemented at both Union and Member State level*, with the Commission invited to propose appropriate monitoring – which is done through the present communication.
- Places the European Pillar of Social Rights firmly within the context of the *Future of Europe debate*, as launched by the Commission’s White Paper of 1 March 2017, as well as the subsequent Reflection Papers on the social dimension of Europe and on harnessing globalisation.
- This communication is seen as another milestone on *the road to Sibiu*, a Romanian city which will host a mega-summit during the Romanian Presidency of the EU (in May 2019), ahead of the European elections.
- States the full commitments of the European Commission to *mainstream the European Pillar of Social Rights in all EU policies*.

Implementation through the European Semester

- Mainstreaming of the priorities of the Pillar, while selecting *themes for detailed reporting on an annual basis* – in the Autumn and Spring Packages (AGS & Country Reports)
- Providing *technical assistance, benchmarking, and good practices*, with a key role for the Social Protection Committee (SPC) and the Employment Committee (EMCO)
- Assessing and monitoring performance with the help of *the new Social Scoreboard*, which will be further developed with the support of Member States

Complementary initiatives

- *EU action* to implement the European Pillar of Social Rights will include:
 - a New Start for **Social Dialogue** (working with social partners)
 - a European **Accessibility Act** (for older people and people with disabilities)
 - a Directive on transparent and predictable **working conditions**
 - the revision of the **Posting of Workers** directive (to counter social dumping)
 - a **Work-Life Balance** package, for parents and carers
 - an Action Plan to tackle the **gender pay gap**, 2017-2019
 - the review of various pieces of legislation on **occupational safety and health**
 - actions to ensure timely access to affordable, preventive and curative **health care of good quality**, not least for people with rare diseases
 - the strengthening of the **Youth Guarantee**
 - a broad set of initiatives under the **New Skills Agenda**, and the setting up of a **European Education Area** – promoting high quality, inclusive education, training and lifelong learning, also regarding digital competences and entrepreneurship.

- *Other key areas* where the Pillar priorities will be mainstreamed include:
 - the **Energy Union** (protecting vulnerable consumers, fighting energy poverty, ensuring affordability)
 - **Digital Single Market** (curbing the digital divide, providing digital skills, ensure affordability)
 - **transport policy** (passenger rights, better access to those with reduced mobility)
 - improve quality of **drinking water**, particularly for vulnerable and marginalised groups
 - **taxation agenda**, to combat tax evasion and avoidance by companies
 - **trade policy**: promoting core labour standards such as collective bargaining, non-discrimination, fighting child and forced labour, decent working conditions including health and safety etc + social impact assessment for all trade agreements
 - The **European Solidarity Corps**, with a particular focus on less privileged youngsters.

Positive elements

- Explicit commitment for the European Commission *to put greater focus on social priorities and put them on a par with economic objectives at the core of the European Semester* (p. 4) – recognition of the need to mainstream a balanced approach and the Social Pillar principles and Scoreboard throughout the Semester mechanisms.
- Commitment for the *Social Pillar priorities to be supported under Cohesion Policy*, by the European Structural and Investment Funds, as well as the European Globalisation Adjustment Fund, the FEAD, the European Fund for Strategic Investment (EFSI), and the Juncker Investment Plan for Europe (p. 4).
- Commitment to *mainstream social impact assessment* in all Stability Support Programmes, such as the case of Greece since 2015 (p. 6).
- *Civil society clearly identified as actor* for the implementation, alongside Member States and social partners (p. 2, 8, 10, 13).

Negative / missing elements

- *The approach does not put forward an integrated roadmap for implementation, based on comprehensive Active Inclusion*, and there is no mention of an upcoming strategy to fight poverty, social exclusion and inequalities, nor is the link made with post-2020.
- *Instead of starting from the 20 policy domains* and putting forward instruments for the implementation of each, *the communication rather looks at what the Commission is already doing* in different fields, and linking back to some of the principles.
- *Important areas are not followed up at all*, such as adequate social protection outside employment, including minimum income; services aside education and health (including housing and tackling homelessness); or adequate, living wages.
- *The systematic monitoring link between the Social Pillar and the European Semester is tenuous* – it is unclear whether it will rest solely with the Social Scoreboard, or how the full set of principles will be reflected in Member States (NRPs) and EU (Country Reports, CSRs) proposals.
- While the European Semester is mentioned, there is absolutely *no reference to Europe 2020 and its targets*, or to other previous initiatives (such as the Social Investment Package).
- While it is acknowledged that the Social Pillar priorities will constitute important drivers for the EU budget and different financial instruments after 2020, *no additional funding seems to be made available* for the integrated implementation of the Pillar.

- While civil society is mentioned twice, a worrying reference adds that non-governmental organisations are of critical importance for the delivery of the Pillar “notably when they provide social services”, thus *ignoring the key role civil society can play in the design, implementation, and monitoring of public policy*, supporting the direct voice of people with experience of poverty who are also service users.

**Communication on Monitoring the Implementation
of the European Pillar of Social Rights
*Accompanying Staff Working Document***

The 89-page Staff Working Document accompanying the Communication is meant to be an update of the similar document produced as part of the European Pillar of Social Rights package issued last year, detailing progress made at EU level on each of the 20 policy domains between April 2017 and March 2018. The structure mirrors that of the previous document.

For each principle, the first part outlines the Union social acquis, starting with the relevant provisions of the Charter of Fundamental Rights of the European Union, and recalling the legislative powers and their limits set out in the Treaty on the Functioning of the European Union (TFEU).

The second part for each principle recalls the key legislative and non-legislative measures already in place which are contributing to the implementation of the principle or right in question. This section is not exhaustive as it presents the most relevant instruments, both legally binding measures and Council or Commission recommendations providing guidance.

Finally, for each principle, a third part outlines possible implementation avenues, distinguishing between what can be done at national level (Member States and social partners), and recent and ongoing initiatives at the EU level. The national level section also includes box examples of good practices in different countries.

In the upcoming weeks, the staff team will perform a comprehensive baseline analysis of the sections dedicated to the five principles that have been selected as priorities for EAPN, comparing the proposals for implementation to our own reflection on what is needed, as put forward in our position paper on the European Pillar of Social Rights.

As a reminder, these five priority principles are:

1. *Education, training and lifelong learning*
2. *Wages*
3. *Social Protection*
4. *Minimum Income*
5. *Access to essential services*

Proposal for a Council Recommendation on Access to Social Protection for Workers and the Self-Employed

Key elements

- The Council Recommendation proposal is accompanied by a *detailed Explanatory Memorandum*, setting out the rationale and context for the initiative.
- The objective is to *support people in non-standard forms of employment and self-employment* who, due to their employment status, are not sufficiently covered by social security schemes, and thus are exposed to higher economic uncertainty.
- The proposal aims at allowing non-standard workers and the self-employed to *adhere* to social security schemes, *accrue* entitlements to social benefits, and *transfer* and receive them, increasing transparency regarding systems and rights.
- The proposal puts forward *mandatory coverage* in what concerns *unemployment benefits, sickness and healthcare benefits, maternity and equivalent paternity benefits, invalidity benefits, old-age benefits, and benefits in case of accidents at work or work-related diseases*. Only for unemployment benefits, coverage is voluntary for the self-employed.
- These provisions are to apply to all workers, *regardless of the type and duration of their employment relationship* and, under comparable conditions, the self-employed (according to Principle 12 of the European Pillar of Social Rights).
- This initiative is complemented by the *Directive on transparent and predictable working conditions*, which also aims at curbing bogus self-employment.

Positive elements

- There is recognition that *gaps in access to social protection may put at risk the welfare and health of individuals* and contribute to economic uncertainty, poverty risks, and inequalities.
- While the level of benefits is not indicated, the proposal explicitly speaks of *adequate social protection*, which should result in reducing income uncertainty, precariousness, and risk of poverty.
- *Adequacy is defined* as allowing individuals to uphold a decent standard of living, replacing income loss in a reasonable manner, allowing people to live in dignity, while preventing them from falling into poverty.
- It is aimed at *improving security especially for women*, who are currently especially exposed to non-standard employment and have greater caring responsibilities.
- It explicitly references the *ILO Recommendation on a Social Protection Floor*, the *Social Open Method of Coordination*, and the *Active Inclusion strategy*.
- The initiative is also meant to *promote better labour markets*, reducing the over-reliance on insecure contracts, without associated social protection benefits.

Negative / missing elements

- Main perspective seems to be that *gaps in welfare are negative for domestic demand, human capital, labour productivity, competitiveness, and sustainable growth*. While economic insecurity is mentioned, poverty as such gets a relatively low profile.

- According to subsidiarity, Member States can decide on the level of protection offered and on how it should be delivered (i.e., public, private, or a mix), which *raises questions about adequacy*, as well as *reduces the role and financing by the state and employers*, with the likelihood of priority being given to implement the initiative through private insurance schemes – which is an individualisation of risk, and *threatens making coverage unaffordable for workers*. The document highlights that employers made it very clear that the initiative should be limited to minimum social protection rights, without any associated additional burden or cost.
- Whilst a broader concept of social protection is mentioned in the introduction, linked to the ILO concept of the Social Protection Floor, *the Recommendation only focuses on social security* (contributory benefits from workers), *rather than universal, tax-funded systems, including social assistance*. Some of the benefits included, such as those related to health or parenthood, *should be redistributive, not contributive*, and should not be connected to employment status, but available to all.
- The ultimate rationale is that access to social protection for workers enables them to keep working and keep contributing to public finances, rather than relying on social assistance of last resort without contributing – *budget sustainability, rather than dignified lives, is the driving force*.

**Proposal for a Council Recommendation on
Access to Social Protection for Workers and the Self-Employed**
Synopsis Report on the Stakeholder Consultation

Key elements

- This document summarizes the results of the two-stage consultation of social partners, as well as the public consultation (20 November 2017 – 15 January 2018), though the bulk of the document is dedicated to the former. EAPN responded to the public consultation – see full response [here](#).
- Social partners broadly agreed that there are issues that needed to be tackled in what concerned the access to social protection for workers in non-standard forms of employment and the self-employed. The European Trade Union Confederation equally stressed that part of the problem was the lack of creation of quality and sustainable jobs.
- While trade unions favoured intervention to ensure greater protection for workers, employers were rather keen for no EU action to be taken on the subject, and are opposed to any legally-binding action
- Trade unions largely supported the objectives related to coverage, transferability, and transparency, and made a strong case for adding adequacy, while also stressing that tying social protection rights to individuals should not lead to an individualisation of social protection. All trade unions supported mandatory coverage.
- 119 responses were received to the public consultation, of which 62 organisations, 7 administrations, 37 citizens, and 13 others. 15 position papers were also received.

Main findings of the public consultation

- 2/3 of respondents agreed with the challenges identified by the European Commission, with most highlighting ‘gaps in formal coverage’ as the most serious.
- The majority of respondents (72.3%) agreed that there was a need for EU action in the field, with 54.6% favouring legislation, and only 4.2% considering soft law (i.e., a Council Recommendation) as highly effective.
- 69.7% of the respondents said that social protection rights and obligations should be mandatory for all workers, and 64.7% thought the same about the self-employed.
- The majority of respondents considered that mandatory coverage would be positive for the European society, labour markets, workers, public finances and the economy, while considered the impact on cost and competition to be neutral.
- The report does not identify any of the respondents to the public consultation by name, and it simply provides quantitative results of the multiple choice questions, without including qualitative contributions provided in narrative form in the comment boxes available in the questionnaire.
- No conclusions are drawn, nor is there a clear link to the final proposals, or explanations on how the responses shaped the final proposal.
- No mention is made in the report of the strategic dialogue meeting organised on the subject, nor how proposals put forward at that time were taken into account.

<h2 style="text-align: center;">Proposal for a Regulation establishing a European Labour Authority</h2>
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Key elements

- While the title may be slightly misleading, the new body is aimed at regulating specifically labour mobility (free movement of workers) and social security coordination in the Single Market, given that 17 million EU citizens now live or work in another Member State, almost double the number compared to a decade ago.
- The Authority is supposed to: facilitate access to information about rights and obligations for workers and employers; support cooperation between Member States; mediate and facilitate cross-border disputes.
- The Authority will have the status of an EU Agency, employ 140 staff, be steered by a Management Board (representative of each Member State + the European Commission), a budget of 50 million euro, and an advisory stakeholder group, to include social partners (civil society not mentioned). It should be set up in 2019, and reach its full operational capacity by 2023.

Positive elements

- Most of the proposals seem positive, though the document, at this stage, is rather descriptive and administrative, and does not go into details about implementation.
- The proposal speaks explicitly about tackling undeclared work (but does not specify whether it would target employers, or poor workers with no choice), and violations of working conditions and health and safety rules.

- It aims to provide better access to services (such as skills-matching, traineeship and apprenticeship opportunities, learning and language training, but also better information on, and take-up of, rights and entitlements.
- Aside workers, the Authority will also serve jobseekers, family members, and third country nationals, to the extent that they are covered by EU labour mobility rules and social security coordination – but this is not detailed.

Negative / missing elements

- The proposal reads as very administrative, without a human perspective, or a qualitative narrative associated to it. Most of the activities listed under Tasks are addressed to Member States and institutions, rather than direct support to people.
- There seems to be a slight focus towards fighting benefit fraud, rather than ensure better take-up, which raises some concerns about whether the Authority will be used more a surveillance tool, rather than an instrument for ensuring people's rights.
- It is unclear what is meant by social security entitlements – does that cover social protection, including social assistance, and the cases when people exceed the period covered by contributory benefits?
- Civil society is not mentioned as an interested party represented on the advisory Stakeholder Group of the Authority, nor is cooperation with third-sector entities for implementation mentioned at any stage.

**Proposal for a Regulation establishing a
European Labour Authority**
Synopsis Report of the Stakeholder Consultation

Key elements

- This document summarizes the results of the public consultation and consultation of practitioners such as Member States and social partners (27 November 2017 – 7 January 2018). EAPN did not respond to this public consultation.
- A total of 8809 replies were received, of which 8420 were identical (a campaign spearheaded by the European Trade Union Confederation), and 389 were unique replies. The identical replies were excluded from the analysis, as not to skew results.
- A stakeholder dialogue was organised in Brussels on 15 December 2017 (EAPN attended), and its conclusions, together with separate position papers received, were also incorporated into the analysis.

Main findings of the public consultation

- 2/3 of respondents agreed or strongly agreed that existing cooperation between national authorities was insufficient to ensure the effective implementation of EU employment and social security rules in cross-border situations.
- Most respondents also indicated that they agreed with the Commission's analysis of the most important challenges.

- Almost 3/4 of respondents agreed or strongly agreed that insufficient access to information and transparency on cross-border mobility rules was a problem for individuals and businesses.
- The most frequent additional comments from respondents referred to limited administrative capacity to deal with mobility, with the most frequently-cited solution being a one-stop shop or better communication channels.
- Most respondents agreed with the mandate of the Authority, as proposed by the European Commission, as supporting information exchange, coordinating cooperation, streamlining administrative practices, providing technical assistance and analytical support, coordinating joint inspections, and providing a dispute-resolution mechanism.
- The role of the Authority in supporting the rights of people to access information, opportunities, and services was also highlighted, not least by EAPN member Eurodiaconia.
- 3 / 4 of respondents agreed that the creation of the Authority would lead to improved cooperation between Member States on cross-border employment and social security matters, as well a better take-up of rights, while some voices expressed concerns over the centralisation of personal information from a data privacy perspective (which links to our previous concerns about surveillance).

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In due course, EAPN will prepare a comprehensive response position to the contents of the Social Fairness Package. For more information about this Briefing or the upcoming response, please contact Sian Jones, Policy Coordinator with EAPN Europe's staff team (sian.jones@eapn.eu)