



Consultation on the implementation of the European Pillar of Social Rights

Executive summary

The European Commission has launched a public consultation on the implementation of the European Pillar of Social Rights (EPSR). In relation to this the Commission has announced its aim to launch a public debate on measures at different levels put into place in order to implement the principles of the EPSR and present a social action programme in 2021 that will contain measures to be pursued at the European level. The Austrian Federal Chamber of Labour (AK) has long been an active participant in the debate on the social focus of the EU for a long time.

AK is calling for a fundamentally new social realignment of the EU. Economic governance and the European Semester are to be reoriented. The goal to bring about the sustainable development of prosperity or welfare for society is to be made as a crucial point. Furthermore, a Social Progress Protocol will be enshrined in EU primary law, giving priority to fundamental social rights.

A new social action program of the EU should contain many new or expanded mandatory minimum social standards. These should include minimum standards for unemployment insurance systems and minimum social security systems of the member states as well as concrete progress in labour law, including the improvement of working conditions of platform as well as health and care workers. The Commission's proposal for a directive on minimum wages is welcomed by us, but still requires concrete improvements.

The ongoing COVID-19 crisis is having a disastrous effect on millions of people in the EU and thus requires decisive and effective measures to improve the working and living conditions of EU citizens. Strong labour laws, fair pay, social protection and the promotion of social dialogue are to be placed at the forefront. Comprehensive measures are required to all the 20 principles of the European Pillar in relation to Social Rights in order to ensure substantial social progress. Our opinion contains a series of proposals in this regard.

The AK's position

Proposals of the Chamber of Labour and concepts related to the principles of the European Pillar of Social Rights

Chapter I: Equal opportunities and access to the labour market

In order to ensure access to (vocational) training and advanced training, greater investment is needed as well as a specific legal entitlement to the above.

The following measures should become the core elements of a new social work programme at EU level:

- A legal entitlement to paid leave for education/training and a statutory obligation to provide a minimum level of advanced vocational training during working hours.
- The provision of opportunities for a second vocation training for all - irrespective of the first vocational training.
- Teaching IT skills, with special focus on supporting socially disadvantaged young people and further training for those with low formal qualifications.
- Promotion of the dual education system (combining theory and practical training) with the participation of the social partners.
- In order to improve the permeability of educational and training systems, the flexibility of possibilities and the mobility of those in education or training, the respective European instruments and policies must be applied and developed further.
- Improving language skills through developing both the relevant national language (educational language) as well as the mother tongue (colloquial language) and foreign languages (at least two in line with the EU's objective).

Principle 2: Gender equality

Gender equality is an important value in a socially just society. In Europe - and particularly in Austria - women are disadvantaged in the labour market in terms of pay, career opportunities and the valuation of gender-typical work. At 19.6 %, the [gender pay gap](#), in Austria (average

gross hourly wage) lies significantly above the EU average of 15.7 % (Eurostat 2018).

The planned Pay Transparency Directive will play an important role in establishing fair pay. The directive must contain binding provisions on wage transparency in companies. In our opinion these should include:

- the legal entitlement of workers to information on salaries and wages - not only on their level, but also on the composition because this is the only way to ensure comparability in the sense of EU equal treatment legislation
- regular reporting by employers of wages by category of employee or position, broken down by gender
- clarification of the term of equal work
- free access to information - without having to submit an individual request to the employer, since many employees would be very reluctant to do so

A further important focus in gender equality should be placed on combatting vertical segregation. There is still a large discrepancy in Europe between the proportion of working and well-trained women and the number of women in management positions. Women must be included in order to participate widely and actively in political decision-making processes as well as in technological development. Thus, we are calling for:

- Implementation of the draft directive (directive on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures) in its most extensive version dated 2012 - supplemented with sanctions in the event of non-compliance with its objectives as well as an ambitious timetable with regard to achieving these objectives
- Mandatory minimum participation of one third of women on the board of companies listed on stock exchanges in order to combat gender inequality not only on boards of directors, but also in corporate management (for Austria see: [Frauen. Management.Report.2020](#) (available in German only))

- The obligation to develop a diversity concept for appointments to management bodies in companies listed on stock exchanges has the potential for more visibility of women's careers. It is of key importance that gender is included alongside the criteria of age, educational and professional background

Furthermore, systematic gender mainstreaming must become a fixture in the field of industrial policy in order to cushion the effects of digitalisation and automation on gender equality. This requires targeted support through measures related to educational and training policy (e.g. the Austrian initiative "Frauen in die Technik" (Women in Technology)).

Principle 3: Equal opportunities

One of the most important fundamental rights of the EU is equal treatment, which must be defended vehemently. Thus, it must also be the task of the European Union to strengthen solidarity and take a stance against any form of division, exclusion, unequal treatment or discrimination. This is particularly true in this time of the coronavirus crisis.

A representative study commissioned by the Vienna Chamber of Labour on [discrimination experienced in Austria](#) in the fields of work, education, housing and health revealed an urgent need for action: almost half (43 %) of those interviewed stated they felt they had been discriminated against at least once in one of the four areas in the last three years. Discrimination is experienced most frequently in the workplace. Whoever experiences discrimination, how often and in which area depends largely on their individual attributes.

AK is calling for protection against discrimination to be updated and expanded. The corresponding draft for an anti-discrimination directive stipulates protection against discrimination (outside the labour market) based on the characteristics of sexual orientation, age, religion or belief and disability. This directive is intended to establish a framework for a ban on discrimination for all the above reasons and to create a standard minimum level of protection in the European Union.

Special attention should be given to discrimination that can be found in rating systems used in HR policies. Rating systems can operate based on assessment data on customers adopted uncritically or on biased management algorithms. This results in the systematic discrimination of vulnerable groups and to date has not been explicitly covered by European legislation on equal treatment. In our opinion specific

protection against discrimination combined with effective opportunities for legal protection would be appropriate.

Principle 4: Active support to employment

The devastating effects of the COVID-19 crisis on the labour markets in EU Member States require fast, comprehensive and effective measures need to be implemented at all political levels to combat unemployment and to protect jobs.

Several measures are listed below which, we consider, should be implemented in Austria (and some of which have already been implemented):

- Keep people in employment through short-time work and utilise the experience gained from short-time work schemes to shorten working hours
- Increase the funds for industry-wide trainee workshops in order to safeguard initial vocational training and create training and employment opportunities for young adults
- Give the long-term unemployed and older workers new perspectives: create 40,000 additional jobs for non-profit activities through AK's Chance 45 model
- Give greater support to socioeconomic projects and businesses
- Improve opportunities for refugees: reintroduce financing for an integration year
- Raise unemployment benefit and unemployment assistance to 70 % of the net replacement rate
- Placing more of the unemployed in vacancies by employing additional people in the Public Employment Service (Arbeitsmarktservice)
- Corona advanced training campaign for the unemployed
- The right to retraining or higher qualifications: Guarantee grants for skilled workers in the long term and expand them, focusing on the healthcare sector
- A new professional start with training allowance: the previous advanced training schemes have been combined in a new training allowance scheme

The instruments of the ESF+ and the REACT-EU programme, the Just Transition Fund and the Youth Guarantee are decisive in combatting the labour market crisis at the European level. These programmes must be provided with sufficient funding and given the necessary flexibility to tackle actual domestic issues and support the solutions proposed above.

In view of the recent dramatic increase in youth unemployment the aim must be to introduce a new, ambitious EU Youth Guarantee. In negotiations for

a new proposal for an EU Youth Guarantee, training and qualifications must be defined as goals, as well as adequate protection in terms of labour and social security laws during training.

Chapter II: Fair working conditions

Principle 5: Secure and adaptable employment

New minimum social standards as part of a new social action programme can make an important contribution to improving working conditions and substantially strengthening social rights. These should include minimum standards to protect workers against contractual clauses that are unfair and restrict mobility, and also against the relocation of workers against their will. As a result of the corona crisis the importance of reliable regulations on continued remuneration in the event of illness, caring for immediate family and other important reasons preventing people from working is all the more evident.

A new social action programme of the EU must put special emphasis on combatting precarious employment conditions. Any measures taken must be guided by the basic principle that all forms of atypical employment must be covered by labour and social law. A new social action programme should contain a prohibition on on-call work (including zero-hour contracts) as well as minimum standards on the quality of work placements. The discussion on possible allowances for precarious employment and the obligation of the employer to offer a standard contract of work, if available, to those in atypical employment within the company should be placed on the EU agenda.

We welcome the Commission's announcement of an initiative to improve the working conditions of platform workers. This has become particularly urgent in view of the COVID-19 crisis. Due to the acute circumstances the Commission should present its proposal as quickly as possible. It is imperative to effectively prevent standards of labour or social law, including collective bargaining agreements, from being undermined. We would like to refer here to a study by [Martin Risak, expert on labour law](#). Furthermore, this initiative should consider that in some cases platform workers are employed in one country as wage earners, while being formally active in another country as self-employed. Platform operators who present themselves as employers or work placement agencies should not be allowed to bypass labour and social law standards.

Both the healthcare and long-term care sectors have

been recognised by the European Commission as important social and economic areas. The number of employees and their qualification is of key importance in ensuring personal health services in the health sector. [AK is proposing two directives](#) (one to improve the working conditions in the healthcare and one regarding live-in carers and is calling for):

- Good working conditions in order to combat the lack of personnel
- Minimum standards across the EU for employees in healthcare and long-term care services and for live-in carers
- Minimum standards across the EU for fair and attractive working conditions in healthcare and long-term care services
- A standard legal framework for placement and employment, legal certainty and transparency and to safeguard working and living standards for all involved in the live-in care sector
- An EU register for work placement agencies, a prohibition of unfair contractual clauses and clear regulations on the rights and obligations of carers, people who need support and their families as well as employment agencies

There is also an urgent need for action to improve working conditions in cross-border traffic. Regulations must ensure that drivers for goods and passenger transport - irrespective of where they come from and whether they are working for a domestic or foreign company - receive equal treatment. For example, there are massive problems with postings, where foreign drivers are still frequently underpaid because companies do not pay the negotiated wage of the receiving state. The adverse working conditions of cross-border drivers also urgently need to be improved with regard to working hours, rules on taking breaks and rest periods.

Principle 6: Wages

An essential precondition for effective steps to improving wages is to strengthen the social partners as well as collective bargaining systems. AK supports the draft directive on adequate minimum wages in the European Union. We welcome in particular the commitment to collective bargaining and the proposal of the Commission to set minimum wages primarily through collective bargaining agreements, which ensures the involvement of trade unions. However, in the opinion of AK there is room for improvement regarding the lack of an exact reference threshold under which statutory minimum wages must not fall. We consider that the exclusion of certain workers (domestic workers, young people) must be stopped as a matter of urgency.

Effective measures are needed to combat wage and social dumping. Therefore, we believe the following initiatives in particular should be implemented at the European level:

- The competencies of the European Labour Agency should be strengthened. It should be given the authority to enforce measures so it can be effective in cases where Member States, authorities or other relevant bodies refuse to cooperate or do not comply with regulations
- The system for the Electronic Exchange of Social Security Information (EESSI) needs to be implemented rapidly and fully in all participating states
- In the case of cross-border postings, the applicable wage in the country where the work is carried out should be the basis for payment of social insurance contributions in order to prevent dumping practices in relation to social insurance contributions
- To prevent false postings of workers, posted workers should only be allowed to remain insured in the home country if they were employed by the posting employer for at least three months before the posting. In addition, so-called A1 certificates should no longer have binding force
- Effective measures to combat offshore companies and pseudo-self-employment, as well as enforcement of cabotage regulations in the transport sector through the mandatory and uniform requirement to carry forgery-proof freight documents also in electronic form
- The rules of the general Posted Workers Directive for both cross-border transport and cabotage should also be applied without exception from the very first day in the road freight transport sector

Principle 7: Information about employment conditions and protection in case of dismissals

Regarding general protection in case of dismissals, EU minimum standards could help to strengthen workers' rights. Principle 7 of the EPSR set out the principle that "prior to any dismissal, workers have the right to be informed of the reasons". The implementation of this principle should, in our opinion, be extended to give workers the right to be given the reasons in written form, if wished for.

Principle 8: Social dialogue and involvement of workers

We consider that strengthening social dialogue, as defined in Principle 8, will require comprehensive measures on several levels:

- Revival of the macroeconomic debate at EU level as well as creation of an independent macroeconomic dialogue for the euro area
- Expanding the capacities of social partners to participate in the social dialogue
- Inclusion of the social partners in the decision-making processes for EU trade policy
- End-to-end ratification, implementation and compliance with the relevant working, social and environmental standards and enforceable sanctions in EU trade agreements
- European Minimum standards in order to guarantee and reinforce co-determination in companies
- Active co-determination in the successful introduction of new technologies in companies
- An extended right of works council members to have a say in all forms of data generation and data storage applications – including at the EU level

Principle 9: Work-life balance

AK wishes to emphasise the importance of the aims of Principle 9 of the EPSR which grants parents and people with caring responsibilities the right to appropriate leave and flexible working arrangements. The goal, therefore, must be to achieve a balanced distribution of caring and other related responsibilities between men and women, not least in order to increase the percentage of women in employment.

We welcome the fact that the Work-life Balance Directive adopted in the last EU legislative period contains a legal entitlement to paternity leave. However, the current period of ten days is clearly too short and should be extended to one month. Furthermore, in order to achieve a better work-life balance, general access to highly qualified and affordable childcare facilities with appropriate opening times must be ensured.

Principle 10: Healthy, safe and well-adapted work environment and data protection

With respect to occupational health and safety, it is necessary to broaden the minimum requirements of the Safety and Health at Work Directive (Council Directive 89/391/EEC) and the relevant individual directives to include risks that have not been addressed sufficiently and also address newly emergent risks.

As a result of the COVID-19 crisis teleworking has increased enormously in EU labour markets. We call on the Commission to include regulations on teleworking in the proposed digitalisation initiative. Since the Workplace Directive and the Directive on Display Screen Equipment are to be updated shortly, the following minimum regulations should be elaborated for teleworking:

- Definition of the term teleworking and regulations on ergonomic requirements
- Regulations on mobile VDUs
- Workplace equipment should be provided by the employer and it should be clarified which equipment needs to be provided by the employer
- A mandatory assessment of home office and teleworking workplaces should be expressed explicitly
- In theory, a workplace should be available at the place of work for every teleworker
- Specific quantitative details such as the dimensions of rooms and indoor climate
- Specific regulations on working outside (temperatures, refreshments, etc.)
- Establishing basic obligations of employers in extreme weather conditions (e.g. heat)

In order to initiate progress on combatting work-related cancer we call on the Commission to continue with the initiative for more and stricter thresholds on carcinogenic working materials in the directive on the protection of workers from the risks related to exposure to carcinogens or mutagens (Directive 2004/37/EC). Risks such as musculoskeletal illnesses and ergonomic considerations in general, psychological stress and nanomaterials and nanoparticles should be expressly included in the directive on workers' protection. The needs of older workers should also be reflected in the directive.

In the transport sector drivers suffer from considerable impairment of their health and safety (for example due to a lack of appropriate sleeping facilities or an unbalanced diet) which, in the long term, leads to health problems and early retirement combined with financial loss. Urgent action is needed here to improve regulations on worker protection in European legal acts on cross-border traffic.

The factor working hours is particularly important when it comes to ensuring healthy and safe working conditions. Sensible models for shortening working hours can combine a series of positive effects. Given the high level of unemployment and underemployment on the one hand, and the increasing burden on workers and increasing stress amongst workers on the other, intelligent models coordinated across the EU should be promoted to ensure a better and fairer distribution of labour – in particular between the employed and unemployed and between the genders.

We believe that a legal framework is necessary to ensure that workers' rights are protected given the application of digital technologies in the working environment and that the privacy and dignity of

workers is not violated. Steps must be taken in particular to prevent the introduction of digital technologies resulting in greater discrimination at work (e.g. the use of software in HR which can lead to discriminatory decision-making processes in HR).

Chapter III: Social protection and inclusion

Principle 11: Childcare and support to children

Childcare facilities must be expanded further. It would be sensible to introduce mandatory measures so that the EU Barcelona objectives (childcare places for at least 90 % of children between the age of three and the minimum school age and for at least 33 % of children under three years of age) are achieved. Austria itself has not achieved the Barcelona objective for under-three year olds. Expenditure in Austria on childcare and elementary schooling lies significantly below the EU average. We call for funding to be raised to the EU average of 1 % of GDP.

Reintroducing EU-wide objectives for childcare would be of great importance in many ways: Early education is decisive for future opportunities of children. In view of the difficult situation in the labour market due to COVID-19 the provision of childcare facilities is of paramount importance for the chances of parents in the labour market, in particular of mothers with small children. Investing in early education also has a positive effect on employment.

Principle 12: Social protection

We welcome the fact that the issue of access to social protection systems was placed on the EU agenda with the recommendation of the Council, adopted in 2019, on access to social protection for workers and the self-employed. In Austria, almost all employed persons are covered by social insurance since the mid-1990s and therefore have access to the corresponding services. However, it must be ensured – in particular in view of the rapid rise of atypical employment – that all forms of atypical employment must be covered by labour and social law, including new types of employment such as platform work.

Principle 13: Unemployment benefits

The unemployment benefit systems in EU Member States diverge significantly from each other and several Member States have unemployment benefit systems that do not satisfy the requirements of an appropriate level of protection in one or more areas. Hence, mandatory minimum standards for

unemployment benefit schemes in EU Member States are needed for the following areas:

- Net replacement rate
- Length of time the benefit is provided
- Coverage rate
- Entitlement to advanced training and vocational qualification measures in combination with minimum income support

Principle 14: Minimum income

Minimum insurance systems are a major component in social protection systems. They must offer an appropriate level of protection so that they can contribute effectively to reducing the risk of poverty and social exclusion.

Since many of the current schemes in place in Member States do not satisfy these requirements, an EU framework directive which defines common principles, definitions and minimum standards should be elaborated. These minimum standards should include the obligation of Member States to introduce or maintain need-oriented social minimum insurance schemes which – relative to the level of prosperity in each country – are aimed at combatting and preventing poverty and social exclusion. A further minimum standard should comprise financial aid for (re-) integration into the labour market.

Principle 15: Old age income and pensions

Widely available and reliable public pension schemes are essential in ensuring a good life for workers and the self-employed when they retire. These public schemes should be available to all and be strengthened generally. Private pensions are normally linked to higher costs and furthermore are exposed to fluctuations in the financial markets. That is why they are not suited to make a decisive contribution to the goals of the European Pillar of Social Rights.

However, AK strongly rejects the repeated recommendations of the Commission to link the state pension age to increasing life expectancy. It is not understandable why decisions of such magnitude of life-planning are removed from the democratic decision-making process and decided by automated mathematical calculations. The trend implicitly linked to this recommendation to lower expenditure on public pensions – despite the expected massive increase in the percentage of older people in the population – is, in our opinion, completely unacceptable in terms of the objectives of Principle 15. People who, for example, cannot remain in employment until the state retirement age due to a lack of jobs for older workers, would be

affected the hardest by automatic increases in the state pension age. For them this “automatic system” would lead to massively reduced pensions and hence a drastic reduction in their social rights.

16. Health care

Well-structured public healthcare systems – such as in Austria – have performed extremely well during the COVID-19 crisis. In connection with strengthening the resilience of the healthcare system to crises, we would like to draw attention to the following actions needed – in particular for Austria, but also at European level:

- Improving public financing of the healthcare system and rolling back the trend for privatisation
- Consolidation of the number of hospital beds in the event of a crisis (End of the long-lasting discussion in Austria on dismantling in order to reach the European average)
- Risk adjustment schemes between the different health insurance providers in order to make access to health services fair (the health insurance providers offer different risk adjustment schemes for their clients. Therefore, an equilibrating mechanism is required)
- Better medical care by ensuring that young doctors are trained and positions for doctors in the public health system are increased, common drug funding for hospitals and public health service doctors (hospitals are currently responsible for their own procurement; buying in bulk with the social insurance system could mean cost savings)
- Losses at the interfaces between regions and the social insurance system could be prevented by common funding, e.g. for drug procurement (see above), but also for carer services in hospitals
- Creation of strategic reserves, e.g. in drugs and medical goods, to stabilise the healthcare sector

Principle 17: Inclusion of people with disabilities

AK wishes to emphasise the need for effective measures in order to continue to implement the UN Convention on the Rights of Persons with Disabilities. The European Union is also a signatory to this UN Convention which came into force in 2011. By signing this, the European Union committed itself to promoting and protecting the rights of people with disabilities and to progressing their full participation in all areas of society.

However, the situation of people with disabilities still does not meet the requirements of the UN Convention on the Rights of Persons with Disabilities. Starting with an education system in which not all children and young people can participate equally due to lack of

accessibility, through the difficult situation in the labour market to the risk of poverty and manifold barriers present in the workplace and outside. We therefore consider it to be extremely important that EU minimum standards are set in the following areas:

- The opportunities for people with disabilities or health issues in the labour market must be improved significantly, for example through comprehensive grants and qualification campaigns
- Employers must make their contribution to including people with disabilities and finally fulfil their obligation to employ persons with disabilities to the full
- Improvements must be made urgently for employees with severe disabilities in day centres or sheltered workshops, both with regard to independent social insurance cover as well as through the creation of inclusive conditions and fair pay
- There is still much to do in equality legislation in order to achieve the equal participation of people with disabilities in society. Furthermore, the anti-discrimination directive must be driven forward rapidly at European level

Principle 18: Long-term care

The EU directive to improve working conditions in the health and long-term care sectors would be an important contribution to create good working conditions for employees in the long-term care sector.

It can be said as a general conclusion that technological innovations can bring major progress in terms of inclusion. However, it is essential that all those affected are included in technological developments from the very start, since technical staff often do not see things from a "sociological point of view". This applies in particular to the care sector because there, too, technological innovations often "pass people by". Both employees and clients must be included and technological developments oriented to their interests and needs. Creating further hierarchies in carer positions through digitalisation by dividing them into "male-rational-technical" and "female-emotional-caring" must be combated.

Principle 19: Housing and assistance for the homeless

AK welcomes the principles enshrined in Principle 19 of the EPSR. However, in our opinion it should be stated as a general rule that affordable housing must be accessible for all. Housing is a fundamental need; local authorities must be supported in the provision of housing.

A social Europe must ensure access to affordable and high-quality housing.

Principle 20: Access to essential services

In our opinion, principle 20 should be formulated more comprehensively. Universal, non-discriminatory and affordable access to high-quality public services must be ensured. For these cornerstones of the European social model, sufficient regulatory and budgetary latitude needs to be given. That makes it all the more necessary to depart from European liberalisation and the austerity approach to public services.

A major issue relating to Principle 20 is to combat energy poverty effectively, improve thermal performance and promote affordable access to clean energy for low-income households, to bring everyone along on the path to the necessary energy transition. Energy poverty must also be seen as the symptom of a glaring imbalance in distribution, which is why a balanced distribution of prosperity is necessary, also through more and better jobs, higher wage growth, a strengthening of social protection systems and measures to improve tax equality.



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About us

The Austrian Federal Chamber of Labour (AK) is by law representing the interests of about 3.8 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore, the Austrian Federal Chamber of Labour is a part of the Austrian social partnership. The Austrian Federal Chamber of Labour is registered at the EU Transparency Register under the number 23869471911-54.

The main objectives of the 1991 established AK EUROPA Office in Brussels are the representation of AK vis-à-vis the European Institutions and interest groups, the monitoring of EU policies and to transfer relevant information from Brussels to Austria, as well as to lobby the in Austria developed expertise and positions of the Austrian Federal Chamber of Labour in Brussels.