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SOCIAL POLICY IN THE EUROPEAN UNION

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Abstract

This paper reflects on the objectives, content and instruments of EU social policy, describes its main components and selected aspects of labor and social security, considers the meaning of the concept of the European social model.

Moreover, it explores differences and links between social policy in general and from the perspective of the European Union and focuses on the understanding of this issue in a broader or a narrower sense. We run the comprehensive review of the existing trends and relations and point out at the current trends in this area.

Keywords: European social policy, European social model, European Union law, labor law, social security, harmonization, coordination

JEL classification: I31, J81, J83, K31, K39

Introduction

Social policy is a science discipline and subject to many social sciences, such as sociology, law and political. The only definition has not been formulated (Krebs, 2015). In the European context it can be e.g. perceived as a summary of activities, tools and measures that aim to prevent, mitigate or eliminate the consequences of social events, to improve the living conditions of individuals and social groups and development of human personality. The improvements in living conditions and development of human personality can be simultaneously viewed as its main objective.

Social policies implement social rights stipulated in the sources of national law, particularly in the constitutions (e.g. the Italian and the German Constitutions, see Blahož, Balaš, Klíma, 2015) or other similar documents (e.g. the Charter of fundamental rights and freedoms in the Czech Republic) and sources of public international law, in particular in the Convention on Economic, Social and Cultural Rights of 1966, the European Social Charter of 1961 and amending protocols thereto, and the Revised European Social Charter of 1996. The mentioned sources of law embrace such social rights as the right to fair working conditions, social security and the protection of health (Klíma, 2009).

Social policy is divided into many sectors and sectoral policies, while even this division is not uniform and depends on individual professionals, depending on whether they conceive the issue in a broader or a narrower sense (Krebs 2015). In a broader sense, social policy includes in particular employment policy, social security, health, family, housing and education policies, however, some authors believe it also covers consumer protection, environmental policy and others. In a narrow sense, social policy comprises employment and social security, or only a selected part of social security, for example pension schemes.

Social policy of the European Union

The position of social policy at EU level stems mainly from the European Union law. It has a specific content, however, it can be seen more broadly or narrowly. If we start from the wording of the Treaty on the Functioning of the European Union (the "Treaty"), then social policy is, *expressis verbis*, mentioned in Article 4 (2)(b) of the Treaty, which sets out the shared powers between the European Union and its Member States. Following the quoted provision, the entire Title X of Part Three of the Treaty (Articles 151-161 of the Treaty) is dedicated to this policy. However, it is clear that the mentioned policy displays a wider scope (Tichý, 2011, Brdek, 2002, Koldinská, 2015). The social dimension is in relation to the internal market and the free movement of persons within the EU, especially the free movement of workers. And it is determined in Title IV of Part Three of this Treaty (esp. Articles 45-48 of the Treaty). In an even broader sense, we can say that other EU policies and activities e.g. in the fields of employment, public health, consumer protection, education, economic, social and territorial cohesion, and others are closely connected with the social policy, or are viewed as a part of social policy, which especially applies to employment policy. In terms of interdependence with other policies, it is important to name the provisions of Article 9 of the Treaty (i.e. the horizontal clause, see Syllová, 2010), which lays down that *"In defining and implementing its policies and activities, the European Union takes into account requirements linked to ... guarantee of adequate social protection, combating social exclusion."*

The provisions of primary law constitute the legal basis for defining EU's social policy, which primarily includes selected aspects of labor and social security. One of the objectives is to ensure that in both of these areas non-discrimination and equal treatment of workers and other persons benefiting from the freedom of movement applies (see details in Art. 45 and 48 of the Treaty). Other goals include *"promoting employment, improving living and working conditions, adequate social protection, social dialogue, development of human resources with a view to lasting high employment and the combating of exclusion"* (Article 151 of the Treaty). Social objectives are also defined by Article 3 of the Treaty on European Union: *"The Union ... shall combat social exclusion and discrimination, promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child."*

To meet its goals, the European Union uses economic, political and legal instruments. And many subject are involved in EU's social policy. In addition to the European Union and its institutions, we can also name the Member States of the European Union, representatives of employees and employers (e.g. in the context of social dialogue) and others.

As mentioned above, social policy belongs to the shared powers and the European Union supports and complements the Member States in the social sphere (Art. 153 of the Treaty), by organizing exchanges of experience, exchange of information and best practices etc. This procedure is mainly associated with the so-called open method of coordination ("OMC"). It is supported by EU law, however, it uses political instruments and is based on moral and political pressure on Member States. Simultaneously, the EU also establishes binding rules. In this framework it uses, for example, the method of harmonization, which aims at harmonizing national laws by using a legal instrument - directives. A further method is that of coordination, which involves linking the different national laws, without the need to interfere in national legislation. This is done with the help of a legal instrument – regulations, which have primacy over national law.

If we look closely at the legal framework of EU social policy, in addition to the Treaty on the Functioning of the European Union, other primary EU law sources include the Treaty on

European Union and the Charter of Fundamental Rights of the European Union (the "Charter"). The Charter contains social rights, especially in the fourth chapter entitled "Solidarity". To illustrate social rights (and principles) we can specify the right to collective bargaining and action (Art. 28 of the Charter), to decent and fair working conditions (Art. 29 of the Charter), to social security and social assistance (Art. 34 of the Charter).

Secondary sources of European Union law (Svoboda, 2013) are as follows: the above mentioned regulations and directives, which are binding, and recommendations and opinions, which are not binding. Directives serve as a legal instrument allowing harmonization by means of introducing the minimum social standards into national legislation, which especially relate to individual and collective labor law and in limited scope to social security. One of the most important directives includes Directive 2010/41/EU on the application of the principle of equal treatment between men and women engaged in a self-employed capacity and repealing Council Directive 86/613/EEC, Directive 2006/54/EC implementing the principle of equal opportunities and equal treatment for men and women in employment and occupation, Directive 2003/88/EC concerning certain aspects of the organization of working time, Directive 2001/23/EC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work and many others.

The list of the relevant regulations shall cover in particular Regulation (EC) no. 883/2004 on the coordination of social security systems and Regulation (EC) no. 987/2009 laying down detailed rules for implementing Regulation (EC) no. 883/2004 on the coordination of social security systems. These regulations enshrine, for example, the principle of equal treatment of EU citizens who move around the European Union, as well as others, equal treatment of benefits, income, facts or events, the aggregation of periods, waiving of residence rules and the application of the law of one state. Equal treatment in relation to the movement of workers is embodied in Regulation (EU) no. 492/2011 on free movement of workers within the European Union, which determines an equal access of a national of a Member State to employment in the territory of another Member State and related aspects.

At the moment we cannot talk about the existence of a single European social policy or a single European social model. It is due to the fact that the social policies of the Member States are shaped under the influence of many factors, not only international (Chvátalová, 2015) and Euro-Union, but also national, such as the historical development and related social traditions, economic situations, demographic characteristics, political situation and others (Horváthová, Abrahám, Chvátalová, 2015). The European Union and its Member States, however, share common values and principles such as respect for human dignity, human rights, equal treatment and non-discrimination, justice, solidarity, etc. (see also Article 2 TEU). And in this sense we can speak about a European social model.

For the sake of completeness, it should be mentioned that despite the numerous differences between the states, each state can be assigned to a particular social state model according to the prevailing criteria. There are a variety of typologies, but the two formulated by British expert Richard Morris Titmuss and later the Danish sociologist Gøsta Esping-Andersen (Esping-Andersen, 1990) are widely used. Over time, the typology developed with the intention of taking into account the latest European developments. At present, mentioned models are predominantly labelled as conservative or continental, liberal or Anglo-Saxon and the social democratic or Scandinavian countries. And new models are known e.g. as social models of the countries of Central and Eastern Europe and Southern Europe (this is based on the geographic approach). But terminology is much richer, because it depends on the point of view, which will then be reflected in the use of adequate expressions (Abrahám, 2011, Bonoli,

1997, Keller, 2009). It is important to realize that if we look at the social security systems of individual states in more detail, we find elements from various models.

It can therefore be concluded that, on the one hand, each Member State individually decides on the classification, organization, financing and other issues of social security and labor law. On the other hand, the process of interaction and europeanization of national social policies is taking place. It is due to, among other things, common challenges and problems of modern times faced by many countries in Europe as the aging population, declining birth rates, unemployment and others. The Member States together with the European Union discuss these issues and look for appropriate solutions. Among the current trends in social policy we can cite, for example, the pursuit of a more effective reconciliation of work and family needs, more balanced involvement of both parents in child care, ensuring the sustainability of pension systems, deinstitutionalization and multi-source financing of long-term care, especially for the seniors, achieving quality while maintaining financial sustainability of health services (Abrhám, Horváthová, 2015), reduction of poverty and social exclusion (see The EU Strategy “Europe 2020”).

Conclusions

The social policy of the European Union is a part of shared competence between the European Union and its Member States and has a specific content. It includes mainly selected aspects of labor and social security. Its objectives are to ensure an equal status of employees and other persons benefiting from the freedom of movement and to promote employment and improvement of working and living conditions, social protection, etc.

The European Union supports and complements the Member States in the social sphere, for example, by organizing exchanges of experience and best practices. In this area the European Union primarily uses political instruments. Simultaneously, the EU also establishes binding rules. In this framework it uses mainly the method of harmonization, which aims at harmonizing national laws, and the method of coordination, which involves linking the different national laws, without the need to interfere in national legislation.

Social policy is shaped by the Member States under the influence of many factors, international, Euro-Union and national. Each Member State decides on its own social system. At the same time the process of interaction and europeanization of national social policies is taking place.

We can point out the common challenges and problems of modern times faced by many countries in Europe as the aging population, declining birth rates, unemployment and others. The Member States together with the European Union discuss these issues, respond to them and look for appropriate solutions.

At present there is no single European social model. Nevertheless, this term is used, especially in terms of sharing common values and principles such as the respect for human dignity, social justice and solidarity.

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