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Article

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Czech journal of social sciences, business and economics

Provided in Cooperation with:

Czech journal of social sciences, business and economics

Reference: Chvátalová, Iva (2017). The European Pillar of Social Rights : reconciliation between work and private life. In: Czech journal of social sciences, business and economics 6 (3), S. 31 - 36.
doi:10.24984/cjsbe.2017.6.3.4.

This Version is available at:

<http://hdl.handle.net/11159/1950>

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Article history: Received 12.05.2017; last revision 26. 08.2017; accepted 02. 09 2017; doi: 10.24984/cjssbe.2017.6.3.4

THE EUROPEAN PILLAR OF SOCIAL RIGHTS: RECONCILIATION BETWEEN WORK AND PRIVATE LIFE

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Abstract

This paper focuses on the timely and hotly-debated topic, namely the issue of social rights in the European Union (EU). The paper reflects on the European Pillar of Social Rights as a key document concerning EU social policy.

The paper analyses various European Commission documents and provides a comprehensive review of the research literature on the topic. Moreover, special attention is paid to the contents of the European Pillar of Social rights as a whole. But primarily, the paper focuses on the second area of the European Pillar named “Fair working conditions” and pinpoints its strong and weak sides, especially with respect to balancing work and private life in relation to the status of working parents and other careers. In response to this topic, the paper explores differences and links between the former directive 2010/18/EU of the 8th March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC and the suggestion on the new Directive.

Keywords: European Pillar of Social Rights, European social model, social protection, working conditions, work balance, parental leave, paternity leave, careers’ leave

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

Introduction

Social policy of the European Union has a specific content (Wallace et al., 1998; Mabbett, 2005; Tichý, 2014; Anderson, 2015; Koldinská, 2015). The Treaty on the Functioning of the European Union mentions social policy or its elements esp. in Article 4 (2)(b) of the Treaty, Article 9 of the Treaty (Syllová, 2010), in Articles 45-48 of the Treaty and in the Title X of Part Three of the Treaty (Articles 151-161 of the Treaty). But the social dimension is contained in many other provisions.

There has recently been quite a debate on the social policy in the research literature (Selsky and Parker, 2005; McKeen, 2006; Doh and Guay, 2006; Abrahám, 2011; Horváthová et al., 2015; Horváthová, 2016; Fagan and Rubery, 2017; Kovács et al., 2017), social Europe (Trubek and Trubek, 2005; Defourny and Nyssens, 2010; Crespy and Menz, 2015) and the European social model (Draxler and Van Vliet, 2010; Tavora, 2012) for many years at European Union level. It can be said, that the mentioned model can be understood as a sum of common values and principles shared by member states and the EU as such (Scharpf, 2002; Chvátalová, 2016), especially solidarity, social justice, equality, respect for human rights etc. (see e.g. Article 2 and 3 of the Treaty on the European Union and the Charter of Fundamental Rights of the European Union).

Discussion concerning this topic continues in this year, too. Among other things, in connection with the statement of the President of the European Commission Jean-Claude Juncker in September 2015, in which he spoke on the need to formulate the European Pillar of Social Rights. On this basis the European Commission created its first proposal suggestion of the Pillar and submitted it for public consultations. Other significant steps followed in the beginning of 2017.

In March, the White Paper on the Future of Europe (see COM (2017)2025, 1 March 2017) was adopted, followed by the publication of Reflection paper on the social dimension of Europe (see COM (2017)206, 26 April 2017) (European Commission, 2017a) and by presentation of the European Pillar of Social Rights as a proposal for a Joint proclamation by the EU Institutions (see (COM (2017) 251, 26 April 2017) in April 2017 (European Commission, 2017b; European Commission, 2017c).

European Pillar of Social Rights

European Pillar of Social Rights represents a significant step forward and carries out many important innovations (Lörcher and Schömann, 2016). Formulation of the mentioned document can be viewed as a response to demographic developments, such as population aging, to unemployment, including long-term and youth unemployment, new forms of work, new family structures, still existing poverty and risk of social exclusion, globalization, digitalization, etc. (see the Interinstitutional Announcement proposal of the European Pillar of Social Rights and the Discussion paper on the social dimension of Europe). These challenges and problems also need to be addressed in the social field with the aim e.g. to achieve better reinforcement and implementation of social rights and to support the labour market and social systems in the 21st century European Union (Bruzelius et al., 2017).

The European Pillar of Social Rights is not a legally binding source of EU law (Svoboda, 2013). It follows up on the existing legal framework of social policy at the EU level, as well as in international law level especially as to the international agreements to which the European Union or all EU countries are party, including the European Social Charter of the Council of Europe or Conventions of the International Labour Organization (Chvátalová, 2015).

It is expected that the substance of the European Pillar will be fulfilled by EU bodies and institutions, Member States and social partners. And it is assumed, that it will be implemented in particular through the adoption of new secondary sources of European Union law, namely directives, or throughout the revision of current regulations as well as through infra-legal measures and instruments.

The structure of the European Pillar of Social Rights

European Pillar of Social Rights consists of three parts called “Equal Opportunities and Access to the Labor Market”, “Fair Working Conditions” and “Social Protection and Inclusion”. It contains 20 principles and rights, most of which are already stipulated by European Union law, but some of them are new. The principles and rights concern European Union citizens and third-country nationals who are legally resident in the EU.

Equal Opportunities and Access to the Labor Market pay attention to the right to education, training and life-long training to be prepared for transitions in the labour market; to equality between women and men as to the terms and conditions of employment, career growth, equal pay and so on. The document stipulates equal treatment and opportunities irrespective of gender, disability, age and other described criteria regarding employment, social protection, education, access to goods and services available to the public. Also, active support to employment is mentioned.

Fair Working Conditions are divided into six areas concerning labour relations, namely secure and adaptable employment, including innovative forms of work, occupational mobility and prevention of precarious working conditions; wages, including adequate minimum wage; information about employment conditions and protection in case of dismissals describing the right to be informed about stipulated facts at the start of employment and in the case of dismissal etc.; social dialogue and involvement of workers, including, among other things, the issue of collective bargaining; work-life balance focused on parents and people with caring responsibilities, and finally healthy, safe and well-adapted work environment as well as data protection that enables high level of protection in all mentioned parts.

The sections dealing with the Social Protection and Inclusion embrace various social aspects such as childcare and support to children, social protection, unemployment benefits, minimum income, old age income and pensions, health care, inclusion of people with disabilities, long-term care, housing and assistance for the homeless and access to essential services. This block of rights and principles lists, for example, the right of children to protection against poverty, the right of workers and self-employed persons to adequate social protection, unemployed persons to activation support from public employment public services, everyone lacking sufficient resources to adequate minimum income benefits ensuring a life in dignity, workers and self-employed persons who retired to a pension ensuring an adequate income and last but not least the right of everyone to affordable and quality long-term care services.

The European Commission submitted a few other related documents along with the European Pillar of Social Rights. These concern, for example, presentations of the Social Scoreboard, the proposal for a revision of the Council Directive of 14 October 1991 91/533/EEC on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship („Written Statement Directive”) or the proposal for the Directive of the European Parliament and of the Council on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.

Directive on work-life balance for parents and carers

The proposal for the mentioned Directive is based on the Article 153 of the Treaty on the Functioning of the European Union and follows up the existing legal framework in this field, especially the Directive 2010/18/EU of 8th March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC and several other directives.

The main objective of the Directive is defined in the Article 1 of the proposal as follows: “This Directive lays down minimum requirements designed to achieve equality between men and women with regard to labour market, opportunities and treatment at work through facilitating the reconciliation of work and family life for working parents and careers.”

The proposal improves work-life balance of parents and other carers and, moreover, creates prerequisites for greater involvement of fathers in care by including several types of leave and by increasing (or introducing, as far as the father and the career are concerned) flexible working arrangements.

Compared with the Directive 2010/18/EU it extends the workplace regulation in the form of extending the concept of parental leave and newly adjusted paternity and care leave at the level of EU law. For the first time it lays down a requirement for the minimum amount of social benefits paid during leaves. The compensation should be at least equal to the level of sick pay. As well as the Directive 2010/18/EU the proposal includes a leave for all workers in case of extraordinary reasons, too.

As to the parental leave, the proposal provides both parents or persons in case of an adopted child with an individual right to this leave of at least four months, that are non-transferable. The

Directive 2010/18/EU stipulates the same length but does not allow the transfer only for 1 month. Fathers have the right to paternity leave for at least ten working days in the event of the birth of their child. Careers can take five days per year provided the member of the family is seriously ill or is a dependent relative.

The main changes that were described above in detail concern leaves are supplemented by the extension of flexible working arrangements for parents of children up to a given age, but at least twelve, and other careers. According to the Article 9 of the proposal persons can request “flexible working arrangement for caring purpose”. Furthermore, one has to stress that the Directive 2010/18/EU also concerns parents of children until a given age up to eight years and, to a lesser extent, also includes adjustments to working conditions.

Conclusions and discussions

The reality of 21st century Europe and European Union is associated with many successes in the social field. But at the same time, it must respond to challenges and problems such as unemployment, population aging, new forms of work, globalization and others.

In the first half of 2017, the European Commission presented a proposal for a European Social Rights Pillar and several other documents, including a proposal for a new directive concerning work-life balance for parents and carers and repealing Council Directive 2010/18/EU.

The European Pillar of Social Rights names twenty rights and principles connected with labour market and social systems. The majority is contained in existing sources of European Union law, some of them are new, for example rights concerning long-term care or care for homeless people. It is rather surprising, that the Pillar does not expressly mention the free movement of persons, especially rights connected with coordination of social security systems and others.

The proposal for a new Directive represents a more comprehensive approach to reconciling work and private, or family life and it can be perceived very positively. However, there is a doubt as to whether it will be positively accepted by member states in full, because, besides others, it also lays down a requirement for the minimum amount of social benefits paid during leaves. Which may burden national budgets for states that do not have paternity or care leave so far. Or do not meet the proposed minimum standards.

It is undisputed that the European Union is increasingly paying attention to the social policy. It can be assumed that extensive discussion will continue within the institutions and bodies of the European Union, the Member States, the social partners and civil society with the aim to find other suitable solutions concerning parents and carers situation, encourage a better sharing of caring responsibilities between men and women and improve the social sphere as a whole.

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