



Declassified¹
AS/Soc (2016) PV 06 add
10 October 2016
Asocpv06add_2016

Committee on Social Affairs, Health and Sustainable Development

Minutes

of the hearing on “Developments in the social functioning of trade unions / An urgent call for increased solidarity: the right to work, the right to strike” held in Paris on Wednesday, 21 September 2016 (2.30 – 4 pm)

For the draft minutes relating to other items on the Committee agenda, please refer to document AS/SOC (2016) PV 06.

6. Developments in the social functioning of trade unions / An urgent call for increased solidarity: the right to work, the right to strike

Rapporteur: Mr Ögmundur Jónasson, Iceland, UEL
[AS/Soc (2016) 30]

The Chairperson announced the exchange of views to be held in the framework of preparations for the report on “Developments in the social functioning of trade unions / An urgent call for increased solidarity: the right to work, the right to strike” (Rapporteur: Mr Jónasson, Iceland, UEL). **Mr Jónasson** would present an introductory memorandum in a moment. She explained that the activity carried a long title following the merger of two motions at the last Committee meeting in June and announced that the rapporteur would propose a new title for his report.

Before giving the floor to the rapporteur, **the Chairperson** welcomed the two experts invited:

- **Dr Aristeia Koukiadaki**, Senior lecturer in employment law, University of Manchester, United Kingdom;
- **Ms Renate Hornung-Draus**, Managing Director, Director European and International Affairs, Confederation of German Employers (BDA).

Mr Jónasson briefly introduced his introductory memorandum. His initial intention had been to examine the relation between increasing inequalities and declining trade union density as observed across Europe. However, in a second step he had extended the scope of his report to the role of trade unions and the impact of relevant developments, not only for inequalities, but for the economy as such, also to take into account the merger of his first reference with the motion put forward by the European Conservatives during the June 2016 part-session. The fact that the other motion on “Balancing the right to strike, the right to work” had been sent to the Committee once more for report (to be considered later in the same meeting) was not at all coherent given that the issues raised were now covered by his own report.

Ms Koukiadaki outlined the many functions of trade unions, including service, representative, regulatory, governmental and public administration functions, as well as the central roles of social dialogue which (1) gave workers a voice and had a protective and distributive function for them,

¹ Minutes approved and declassified by the Committee on Social Affairs, Health and Sustainable Development at its meeting on 10 October 2016 in Strasbourg.

(2) maintained trust between workers and employers, as well as their respective morale and commitment, and (3) helped the State manage and contain social conflicts. Amongst the most recent policy changes affecting the functions of trade unions had been the “employment-friendly policies” generated by the economic crisis. These economic policies at different levels had reduced the wage-setting power of trade unions.

Some countries had also seen changes in the process of public decision-making, including a lack of due regard to social dialogue (e.g. Greece, Romania, Spain), an increased risk of more radical policy changes or a lack of social and democratic legitimacy leading to mass mobilisation. Changes in the workplace representation function of trade unions were observed in several countries where, for example, trade unions had lost their function as the main representative channel (e.g. Greece, Lithuania, Portugal, Romania, Spain), or where significant restrictions had been put on collective bargaining in the public sector (e.g. Greece, Portugal, Spain) or the right to strike as such had been restricted (e.g. Romania, United Kingdom). Several countries had also seen restrictions in the regulatory function of trade unions, such as the restriction or abolition of extension mechanisms (e.g. Greece, Ireland, Portugal, Romania, Spain) or the suspension of the favourability principle and possibilities for company-level derogations (e.g. France, Greece, Ireland, Italy, Portugal, Romania, Slovenia, Spain).

All policy changes described had had consequences for the function of trade unions in labour market regulation, leading to:

- more fragmented, uncoordinated and disorganised collective bargaining and industrial relations systems;
- more insistence on cost competitiveness and unit labour costs and subsequently minimalist bargaining agendas;
- a rise in precarious work, labour market segmentation and informality;
- a lack of positive impact on labour market performance;
- greater pay dispersion inhibiting inclusive growth and recovery from the crisis;
- greater state intervention in labour market regulation;
- greater externalities for employers.

Statistically, these trends were expressed by a decrease in collective bargaining coverage between the years 2000 and 2012. According to the expert, the way forward should include a re-orientation of policy objectives considering collective agreements as public goods with inclusive regulatory coverage and trade unions as having a “beneficial constraint” effect in the organisation of capitalist labour markets. Concrete policy responses should comprise a re-affirmation of the central role of collective bargaining and industrial action in the European Social Model, a broad nexus between the right to collective bargaining and the right to take industrial action and lawful collective action against governmental intervention restricting collective bargaining.

NB: The full Power Point presentation used by this expert can be found on the PACE Extranet.

Ms Hornung-Draus expressed her satisfaction about being at this meeting where all member States represented shared the European Social Model. As employers’ representative, she was very much in favour of preserving the social dialogue as an asset to European economies (as now expressed by the new title suggested by the rapporteur). However, the tradition of industrial relations observed across Europe were diverse: Whilst the Nordic systems knew binding collective agreements (including peace obligations) where employers participating in the social dialogue felt protected, industrial action in the Mediterranean system was rather perceived as an individual right. In any case, interventions into industrial relations’ systems should not be of an overly punctual nature because they could disturb existing balances.

Most economies across Europe had suffered from the crisis in one way or the other, but reactions to it had been very different: Whilst in her own country, Germany, both employers and employees had been ready to make concessions, other countries had not come to consensual solutions and the State had been obliged to intervene (e.g. in Spain). Austerity measures had needed to be imposed in particular in countries where social dialogue had not functioned well. How had the trade unions evolved in this context? Evidence showed that there had been an overall decrease in trade union density (although it had been reversed in some places); this was certainly due to the crisis, but also to changing economic processes and structures more generally, including a general evolution towards greater individualisation

of society. In Central and Eastern Europe lower trade union density was also linked to the fact that many had given up on previously mandatory memberships. This was much to the regret of today's employers who were in search of strong partners in the social dialogue and therefore had an interest in organisational levels to be upheld on both sides.

Finally, globalisation had had negative effects on the functioning of trade unions, given that the latter also increasingly followed international models of communication and conflicts led via social media. This meant that even European systems which had previously strived towards consensus were now pushed into adversarial situations and conflicts (instead of dialogue).

Once **the Chairperson** had opened the discussion, **Mr Hunko**, himself the former rapporteur on austerity policies (in 2012) and collective bargaining (in 2015), affirmed that the current trend towards weaker trade unions and social dialogue was evident. He wondered, however, if the suggested change to the title was useful, and personally preferred the former one. He agreed with the first expert that collective bargaining had been limited under austerity programmes in Greece, as he had also pointed out in his reports.

Mr Davies was convinced that, in the United Kingdom, one could currently observe a reduction in social commitments – a trend that seemed to continue – and that the weakening of trade unions would lead to a backlash affecting the economy.

Ms Koukiadaki, in response to these comments, confirmed that trade unions were less involved in the social dialogue in certain countries, such as Greece or Romania, and that social partners' agreements had been disregarded by the Troika imposing austerity programmes. She was personally convinced that current developments in trade unions were important and that the latter were not only part of the problem but also of the solutions to be found to strengthen economic development. For the United Kingdom, the expert agreed that there had been restrictive legislation, but also a "re-politisation" of conflicts at the company level. According to general experience, trade unions acting politically at a higher level took the pressure off individual companies.

Ms Hornung-Draus agreed that the fact of ignoring or tossing over existing agreements (such as seen in Greece) had not been correct, but that this was not representative of the practice applied across Europe. She affirmed that there was a right to strike and a right to work and illustrated the latter through an example from Belgium, where illegal strike action had hindered certain people from reaching the work place. In this case, the European Committee of Social Rights (ECSR) had condemned State intervention as unlawful restrictions on the activities of strike pickets, incompatible with Article 6§4 of the Revised Charter. However, the ECSR had not taken into account, in its decision, that the trade unions concerned did not have a legal personality (as they refused to organise themselves as such, but continued to be organised as loose associations) and could therefore not be held fully accountable; it was rather this legal status of Belgian trade unions which should have been criticised.²

Mr Jónasson thanked both experts for their very clear and concise contributions. He believed that the Committee meeting in Paris itself was like an exercise in social dialogue (between workers and employers) because both sides were represented at the meeting. He fully agreed with the fact that trade unions were part of the solution for more equality in economic development; however, they needed better social acceptance today. Members present had heard that employers were also interested in strong trade unions which were accountable for their own action. Referring to Mr Hunko's remark on the title, he still wished to go beyond the initial title after the merger of two motions in June, and therefore suggested the following as the new title: "Reinforcing social dialogue as an instrument for stability and decreasing social and economic inequalities".

This proposal **was endorsed** by the Committee.

² For full information on the complaint against Belgium (No. 59/2009), please consult the Council of Europe database <http://hudoc.esc.coe.int/eng?i=cc-59-2009-dmerits-en>.