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Launching a consultation on a European Pillar of Social Rights

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
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Launching a consultation on a European Pillar of Social Rights

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1. Introduction

President Juncker announced the establishment of a European Pillar of Social Rights in his State of the Union address in the European Parliament on 9 September 2015. This initiative is part of the work undertaken by the Commission for a deeper and fairer Economic and Monetary Union (EMU)¹ and part of the Commission 2016 Work Programme.

As President Juncker indicated in his speech: *“We have to step up the work for a fair and truly pan-European labour market. (...) As part of these efforts, I will want to develop a European Pillar of Social Rights, which takes account of the changing realities of Europe's societies and the world of work. And which can serve as a compass for the renewed convergence within the euro area. The European Pillar of Social Rights should complement what we have already jointly achieved when it comes to the protection of workers in the EU. I will expect social partners to play a central role in this process. I believe we do well to start with this initiative within the euro area, while allowing other EU Member States to join in if they want to do so.”*

This Communication outlines a way forward for the European Pillar of Social Rights. It sets out the rationale behind the initiative, discusses its role, scope and nature, and launches a broad consultation aimed at gathering feedback. A first, preliminary outline of the Pillar is annexed to this Communication to facilitate the discussion. This Communication is also accompanied by two Staff Working Documents: the first one describes key economic, labour market and societal trends on which the Pillar builds, and which it should contribute to address, and the second one recalls the most relevant legal "acquis" at EU level.²

2. Why a European Pillar of Social Rights

2.1. A highly competitive social market economy

Action at EU level reflects the Union's founding principles and builds on the conviction that economic development should result in greater social progress and cohesion and that, while ensuring appropriate safety nets in line with European values, social policy should also be conceived as a productive factor, which reduces inequality, maximises job creation and allows Europe's human capital to thrive. This conviction is confirmed by evidence on employment and social performance. The best performing Member States in economic terms have developed more ambitious and efficient social policies, not just as a result of economic development, but as a central part of their growth model. Key to this is the design of welfare systems and labour market institutions fulfilling their role and supporting job creation.

This approach is also at the core of the overall economic agenda of this Commission, as exemplified by its Annual Growth Survey 2016. In its focus on promoting structural reforms, investment and responsible fiscal policies, the Commission has put a clear emphasis on social considerations and social fairness.

¹ Political Guidelines for the next European Commission, 15 July 2014, "A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change".

² Commission Staff Working Documents "Key economic, employment and social trends behind the European Pillar of Social Rights", (SWD (2016) 51), and "The EU social acquis" (SWD(2016) 50) of 8 March 2016.

In line with the principle of subsidiarity, Member States are primarily competent for the definition of their employment and social policies. This includes labour law and the organisation of welfare systems. Such competence is recognised in the EU Treaties which, since the foundation of the European Economic Community, also foresee a role for the EU to complement Member States' actions. Article 3 of the Treaty on European Union reflects this overall objective, which is to *"work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment."*

This is why the establishment and deepening of the European single market has gone hand-in-hand with the development of a legal "acquis" in the social field at EU level, to ensure a level-playing field, limit the risk of social dumping or "race to the bottom", and facilitate economic and social integration. This is also why, since the 1990s, employment and social considerations have been an essential feature of the process of economic policy coordination at EU level, now known as the European Semester. The rationale behind the European Pillar of Social Rights follows this logic and responds to a double need: overcoming the crisis and looking beyond, and moving towards a deeper and fairer EMU.

2.2. Overcoming the crisis and looking beyond

Europe is emerging from its worst crisis in decades: every Member State and the EU as a whole are struggling with the political, economic and social consequences, while seeking to anticipate future developments. The crisis has had severe and visible effects on Europe's society and economy. Welfare systems have cushioned some of the impact, but unemployment has risen, a significant share of the population is at risk of poverty, public finances have been stretched, and national performances have diverged markedly. Unemployment, in particular, has been taking a very heavy toll on individuals and society for many years: almost 22 million persons are still out of work and looking for a job (close to 17 million in the euro area), of which 10 million have been doing so for more than a year.

The crisis has also partly hidden some and accentuated other more fundamental long-term trends. Among these are, for instance, changes in societal structures, family and work patterns; longer and more varied working lives; a more diverse workforce and the spread of new forms of work; the paradox between rising levels of education and widespread skills mismatches; increased inequalities; new needs and opportunities emerging from progress in life expectancy and demographic ageing; technological change and the digitisation of society and the economy.

The scope and nature of challenges confronting the world of work, and society more generally, have changed radically compared to the 20th century, and there are many new or forthcoming trends which Europe will need to adapt to. The objectives of social policy and its capacity to deliver are being significantly tested, and Europe's capacity to achieve well-functioning and fair labour markets and welfare systems is key to its ability to boost productivity, compete globally, strengthen social cohesion and keep increasing the living standards of its citizens.

Such reflection is gaining prominence internationally, as well as within each Member State.³ In spite of the uncertainties about the future, there is growing evidence and global consensus on the need to strengthen the link between economic, social and environmental development, on the fact that inequalities hold back economic development, and on the need to build a more inclusive growth model, as illustrated in the Sustainable Development Goals adopted by the United Nations in September 2015, as well as in repeated conclusions from the G20. This global agenda draws heavily on the vast amount of research done by international organisations, such as the Organisation for Economic Cooperation and Development, the World Bank, the International Labour Organization and the International Monetary Fund.

These publications highlight that one important transmission mechanism between long-term growth, equality and social progress is investment in human capital. They also confirm that income inequality may have a long-term negative impact on potential growth by consolidating and reinforcing existing inequalities of opportunities, limiting skills development and hampering social and occupational mobility. In advanced economies, which base their prosperity on productivity growth and their capacity to innovate, social and economic performances are two sides of the same coin.

Modern social policy should rely on investment in human capital based on equal opportunities, the prevention of and protection against social risks, the existence of effective safety nets and incentives to access the labour market, so as to enable people to live a decent life, change personal and professional statuses over the lifetime and make the most of their talent.

2.3. Moving towards a deeper and fairer Economic and Monetary Union

The euro area is drawing the lessons from the crisis of recent years and has embarked on a process of further integration and consolidation. This necessarily includes a social dimension. The Five Presidents' Report on Completing Europe's EMU⁴ stresses that "*Europe's ambition should be to earn a 'social triple A'*" and that "*for EMU to succeed, labour market and welfare systems need to function well and in a fair manner in all euro area Member States*". While recalling that there is no "one-size-fits-all" template, the Report underlines that the challenges are often similar across Member States. It also calls for a stronger focus on employment and social performance as part of a broader process of upward convergence towards more resilient economic structures within the euro area.

³ See, for instance, ILO (2015), "The future of work centenary initiative"; OECD (2016), "Policy forum on the future of work"; Bertelsmann Stiftung (2015), "Redesigning European welfare states – Ways forward"; Bundesministerium für Arbeit und Soziales (2015), "Green Paper: Re-Imagining Work. Work 4.0"; World Economic Forum (2016), "The Future of Jobs: Employment, Skills and Workforce Strategy for the Fourth Industrial Revolution"; OECD, IMF, World Bank and the ILO (2015), "Income inequality and labour income share in G20 countries: Trends, Impacts and Causes".

⁴ "Completing Europe's Economic and Monetary Union", Report by Jean-Claude Juncker, in cooperation with Donald Tusk, Jeroen Dijsselbloem, Mario Draghi and Martin Schulz, June 2015. In their joint contribution to the Report, France and Germany, for instance, stressed the need to reinforce the cooperation and common orientations in certain areas such as active labour market policies and social security systems. See also European Political Strategy Center (2015), "The Social Dimension of Economic and Monetary Union".

This is not just a political or social imperative, it is also an economic necessity: the experience of the past decade and a half has shown that persisting imbalances in one or several Member States may put at risk the stability of the euro area as a whole, and that an inability to correct these may result in even further costly divergence. After the crisis of 2007-2008, the euro area became more heterogeneous, with some countries particularly hit, and this heterogeneity takes time to reduce. Looking ahead, it is clear that the future success of the euro area depends, in no small measure, on the effectiveness of national labour markets and welfare systems and on the capacity of the economy to absorb and adjust to shocks.

Performing and inclusive labour markets need to effectively combine elements of flexibility and security, which can deliver higher levels of employment and adjustment capacities. The related concept of "flexicurity" is not new but in the aftermath of the crisis, and in light of a changing world of work, it is time to redefine how it can be best applied in practice. Firms have an interest in a predictable and legally secure business environment, in being able to attract skilled and productive workers but also to adjust to fast-changing market realities. Workers have an interest in job and income security, to be able to reconcile work and private life, but also to take up new challenges and adapt throughout their careers, and to keep accumulating skills, in a lifelong perspective. Unemployed and inactive people are often looking for ways to the world of work, which do not trap them in low-quality, low-pay jobs, or deprive them of essential social rights. The economy and society, particularly within the euro area, have an interest in better development and use of skills, greater agility and resilience, social cohesion and a fair and effective distribution of rights, duties and incomes, also across generations.

At the same time, high unemployment and demographic ageing, combined with pressures on public finances and the need to minimise spill-overs between countries ensuing from macroeconomic imbalances, have put to the fore the question of the performance of national welfare systems, from several points of view: first, as regards their adequacy and fiscal sustainability in the light of evolving social needs, including the need to address poverty; second, as regards their impact on job creation, both from an employer and a jobseeker perspective, including their capacity to make work pay and to strengthen people's skills and ability to participate fully in society; and third, an aspect which is particularly important for the euro area, as regards their capacity to buffer macroeconomic shocks and play an automatic stabilisation function. High employment, low unemployment and well-designed welfare systems are key for sound public finances, and too strong divergences in labour market and social performance create a threat to the functioning of the euro area. As part of the steps taken to improve fiscal surveillance at EU level, the reflection on the quality of public finances, of which welfare systems constitute a large share, has led to increased attention to issues related to the fairness and efficiency of public revenues and expenditure.

2.4. Building on a wealth of experience

The European Pillar of Social Rights can draw on a wealth of experience and practices: in many fields, the world's best performers are to be found in Europe, and solutions are well known. However, given the extent of today's challenges, complacency and *status quo* are not an option. There is also a lot to learn from fast-changing realities across the world.

While acknowledging that situations differ widely across Member States, the Pillar can also build on the common values and principles shared at national, European and international levels. Such values and principles feature prominently in reference documents such as the Treaty on European Union (TEU), the Treaty on the Functioning of the European Union (TFEU), the Charter of Fundamental Rights and the case-law of the Court of Justice of the European Union, as well as in international instruments such as the Social Charter adopted by the Council of Europe and recommendations from the ILO.

Such frameworks often cover a wide range of domains, where they define general principles or minimum standards, to be complemented at national, regional or local level. The key issue in Europe is thus not necessarily one of recognition of rights, but rather their actual take-up and implementation, given the rapid changes in the social, legal and economic environment.

Over the years, the Commission has taken initiatives to strengthen efforts on pressing priorities and to update the EU "acquis". Such efforts follow the logic of better regulation: this is not less regulation, but an approach to regulation that takes full account of the economic, social and environmental impact on the ground, to make sure that each initiative reaches its goal in the best manner. During this mandate, the Commission has rolled out the European Structural and Investment Funds for 2014-2020, of which close to 20% is mobilised through the European Social Fund. It has also acted on several fronts, to name a few:

- Greater attention to social considerations in the European Semester of economic policy coordination, the use of social indicators in the so-called macroeconomic imbalances procedure, the promotion of "social benchmarking" and an assessment of the social impact of the new stability support programme for Greece;
- Mainstreaming social objectives in flagship initiatives such as the Investment Plan for Europe, the Energy Union and the Digital Single Market;
- Presenting a strategic engagement for gender equality for 2016-2019;
- Frontloading financial support for Member States to establish a Youth Guarantee, which foresees that all young people under 25 should get a good-quality, concrete offer within 4 months of them leaving formal education or becoming unemployed;
- Issuing guidance to the Member States on the reintegration of long-term unemployed into the labour market;
- Proposing a European Accessibility Act to facilitate access to essential goods and services for disabled people in the single market;
- Proposing a Revision of the Posting of Workers Directive to promote the principle of equal pay for equal work at the same place.

Work is also underway in 2016 on several additional aspects, and will continue in parallel with the consultation on the Pillar: for a fresh start to promote work-life balance for working parents; for a European Skills Agenda; and for a thorough evaluation of the 24 occupational health and safety Directives; which should help to assess their relevance, effectiveness and coherence in order to maintain a high degree of workers' health and safety protection in the light of new risks, while simplifying and modernising the applicable legislation, also to facilitate take-up by SMEs. These examples are illustrative of the supporting, guiding and framing role the EU can play in the social field, and of further actions that may unfold from the establishment of the Pillar.

A key priority for this Commission is also to encourage social dialogue at all levels. Following a high-level conference on a new start for EU social dialogue, in March 2015, EU social partners at cross-industry level have agreed on a joint in-depth employment analysis and a joint work programme for 2015-2017. Negotiations have started on an autonomous framework agreement on active ageing; joint conclusions are being prepared on the issue of work-life balance; and a working group is looking at the implementation by their members of their previous autonomous framework agreements. EU sectoral social partners, represented in 43 different sectors and representing 75% of the workforce, have also continued to deliver on their respective joint work programmes.

3. The European Pillar of Social Rights: role, scope and legal nature

The purpose of the Pillar is to express a number of essential principles to support well-functioning and fair labour markets and welfare systems. As indicated by President Juncker, the Pillar will be developed within the euro area, while allowing other EU Member States to join in if they want to do so.

The Pillar will thus build on, and complement, the existing EU-level social "acquis", and the principles it contains will have a specific focus on addressing the needs and challenges confronting the euro area. Once established, the Pillar should become a reference framework to screen the employment and social performance of participating Member States, to drive reforms at national level and, more specifically, to serve as a compass for renewed convergence within the euro area.

3.1. Outlining principles fit for today's and tomorrow's realities

In annex to this Communication, a first, preliminary outline of the Pillar is presented for discussion. The principles have been selected for both their economic and social importance for the performance of participating Member States.

The outline is structured around three main headings:

- Equal opportunities and access to the labour market, including skills development and life-long learning and active support for employment, to increase employment opportunities, facilitate transitions between different statuses and improve the employability of individuals.
- Fair working conditions, to set an adequate and reliable balance of rights and obligations between workers and employers, as well as between flexibility and security elements, to facilitate job creation, job take-up and the adaptability of firms, and promoting social dialogue.

- Adequate and sustainable social protection, as well as access to high quality essential services, including childcare, healthcare and long-term care, to ensure dignified living and protection against risks, and to enable individuals to participate fully in employment and more generally in society.

A number of policy domains are identified, to which different principles are attached. These principles take as a starting point a number of rights already inscribed in EU and other relevant sources of law, and set out in greater detail possible ways to operationalise them. These formulations also draw inspiration from existing guidance at EU level, for instance in the context of the coordination of economic policy, while seeking to capture latest trends.

For each of these principles, the situation across Europe varies widely, and there are many practical difficulties, big and small, to address. These typically include different interests between individuals, firms and society; possible trade-offs between short-term and long-term solutions; the existence of "grey zones", also as a result of the blurring of the notion of work; and the issue of "who pays for what", depending on whether private or public financing is expected to play a role. There is also the challenge of designing new standards and practices in a way which can be consistent with the needs of a dynamic economy in order to sustain the process of upwards convergence across regions and Member States.

The logic of the Pillar, and of the discussion leading towards it, is not to hide these differences and tensions, but to expose and confront them in a new light, which takes account of the changing realities of the world of work and of the diversity of situations across Europe. In so doing, the Pillar should help to modernise, broaden and deepen social rights, at work and in society, by facilitating their actual take-up and by promoting practices that can be beneficial from an individual, firms and societal point of view.

3.2. Adding value for the euro area and the EU as a whole

The Pillar does not repeat nor paraphrase the EU "acquis": it spells out in more detail principles and commitments that can steer greater convergence within the euro area. And, in the same way that the Pillar does not replace the "acquis", the principles proposed here do not replace existing rights: they offer a way to assess and, in future, approximate for the better the performance of national employment and social policies.

But the process leading to the Pillar should also be an occasion to revisit the "acquis". The present "acquis" has been established step by step, at different points in time, with some domains better covered than others. The consultation on the Pillar provides an opportunity to take a holistic view of the "acquis", to review its relevance in the light of new trends and to identify possible areas for future action, at the appropriate level.

Such stocktaking should notably serve to answer the following questions: is there a deficit in the implementation of the "acquis"? Are there fundamental gaps in the social rights laid down at EU level? How can such deficits and/or gaps be accounted for? This is also why the consultation process leading to the Pillar will be open to all Member States and should also help those not in the euro area to decide whether to join in the Pillar.

The work on establishing the Pillar will complement other on-going efforts to deepen EMU⁵ and should serve as a contribution to the work on the White Paper on the future of Europe's EMU, foreseen in spring 2017. In particular, the Five Presidents' Report on Completing Europe's EMU highlighted the need to pursue the convergence process towards more resilient economic structures, and to make such processes more binding in the medium term. This would be achieved by agreeing on a set of common high-level standards, which should focus, among others, on labour markets.

Ultimately, the legal nature of the Pillar itself will need to take account of the scope and legal limitations at EU and euro area levels. For instance, Article 153 of the Treaty on the Functioning of the European Union clearly does not provide competence of the Union to legislate on "pay".

While various instruments can be considered to establish the Pillar, such as a Recommendation, the Commission will find it essential to involve Parliament and Council, as well as other EU institutions, and to gather broad support for its implementation.

4. Objectives of the consultation

The establishment of the Pillar is an opportunity to steer the thinking on existing social rights, on the particular needs of the euro area, on the changing realities of the world of work, as well as on the reforms needed at all levels. The consultation process should therefore be as far-reaching as possible.

4.1. Suggested outcomes

The consultation process has three main aims:

- A first aim is to make an assessment of the present EU "acquis". In particular, the consultation should help to determine the extent to which existing rights are practiced and remain relevant for today's and tomorrow's challenges, and/or whether new ways to deliver on these rights should be considered.
- A second aim is to reflect on new trends in work patterns and societies, due to the impact of demographic trends, new technologies and other factors of importance for working life and social conditions. The identification of best practices and lessons from social innovation should be actively encouraged.
- A third aim is to gather views and get feedback on the outline of the European Pillar of Social Rights itself. The consultation should serve to discuss its scope and content, as well as its role as part of the social dimension of the EMU, to reflect on the particular needs of the euro area, to discuss the specificity of the principles proposed here and to explore the related challenges linked to these. The consultation should also help Member States not in the euro area to determine whether to participate in the Pillar.

The consultation process should be concluded by 31 December 2016, as the basis for the Commission to put forward a final proposal for the Pillar early in 2017.

⁵ COM (2015) 600 of 21 October 2015 on steps towards Completing Economic and Monetary Union.

4.2. Mobilising for the debate

In the coming months, the Commission will actively engage with other EU institutions, national authorities and parliaments, trade unions and business associations, NGOs, social service providers, experts from academia, as well as the public. At national level, the Commission will facilitate discussions through its Representations in the Member States,

EU social partners will be invited to play an active role in shaping the Pillar. The Commission will also request the opinion of the European Economic and Social Committee and of the Committee of the Regions.

4.3. Structured feedback

In addition to the public consultation, three work streams will be organised to feed into the discussion, one for each suggested outcome highlighted above:

- The EU social "acquis": taking stock.
- The future of work and of welfare systems: challenges and opportunities.
- The role of the European Pillar of Social Rights as part of a deeper and fairer EMU.

The Commission will hold a European conference by the end of 2016 to gather feedback.

4.4. Informing the discussion

A dedicated webpage is established for the consultation at: <http://ec.europa.eu/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights>

This will include:

- This Communication and supporting Staff Working Documents.
- A set of factsheets, prepared by the services of the Commission, presenting in greater detail the economic and legal reasoning behind the domains retained in the outline of the Pillar annexed to this Communication.
- The activities foreseen as part of each work stream mentioned above.
- A list of meetings and events foreseen at EU and national level in the coming months.

5. Questions for the consultation

The Commission invites all interested parties to reply to the questions set out in this Communication, together with any additional comments, by **31 December 2016**.

This can be done by filling out an online questionnaire, available at the dedicated webpage mentioned above, by sending input by email to the following email address:

EMPL-EUROPEAN-PILLAR-OF-SOCIAL-RIGHTS@ec.europa.eu

or by post to:

EUROPEAN COMMISSION
Directorate-General Employment, Social Affairs and Inclusion
Rue Joseph II, 27 – 00/120
B-1049 BRUXELLES⁶

The questions for which the European Commission seeks views are the following:

On the social situation and EU social "acquis"

1. What do you see as most pressing employment and social priorities?
2. How can we account for different employment and social situations across Europe?
3. Is the EU "acquis" up to date and do you see scope for further EU action?

On the future of work and welfare systems

4. What trends would you see as most transformative?
5. What would be the main risks and opportunities linked to such trends?
6. Are there policies, institutions or firm practices – existing or emerging – which you would recommend as references?

On the European Pillar of Social Rights

7. Do you agree with the approach outlined here for the establishment of a European Pillar of Social Rights?
8. Do you agree with the scope of the Pillar, domains and principles proposed here? Are there aspects that are not adequately expressed or covered so far?
9. What domains and principles would be most important as part of a renewed convergence for the euro area?
10. How should these be expressed and made operational? In particular, do you see the scope and added value of minimum standards or reference benchmarks in certain areas and if so, which ones?

It is also possible to comment on each domain and principle of the proposed Pillar by filling in a more specific on-line questionnaire, on the webpage of the consultation.

⁶ Please note that all received contributions, together with the identity of the contributor, will be published on the Internet, unless the contributor objects to publication of the personal data on the grounds that such publication would harm his or her legitimate interests. In this case, the contribution may be published in anonymous form. Otherwise, the contribution will not be published nor will, in principle, its content be taken into account.