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Protection of the right to bargain collectively, including the right to strike

Report[1]
Committee on Social Affairs, Health and Sustainable Development
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Summary

Across Europe, the right of workers to organise, to bargain collectively with employers and to strike has long been part of the continent's social contract, enshrined in the European Convention on Human Rights and the European Social Charter.

Yet, with Europe facing prolonged economic financial crisis and persistent austerity policies in some States, these basic rights are coming under threat. As a result, inequalities have grown, there has been a trend towards lower wages, and working conditions have been affected. Without the appropriate means of defending social rights in a globalised world, the life chances of whole generations could be at risk. The exclusion of some groups from economic development and wealth could end up damaging democracy itself.

Council of Europe member States should protect and strengthen the rights to organise, bargain collectively and strike, revising their labour laws where necessary – in line with the European Social Charter (revised) – and reinforcing labour inspections to supervise them properly. Trade unions and others should have the possibility of "collective redress" if businesses break the law. Finally, States should end austerity policies and instead emphasise proactive investment policies.

1. Reference to committee: Doc. 13043, Reference 3913 of 5 October 2012.

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A. Draft resolution[2]

1. Social dialogue, the regular and institutionalised dialogue between employers' and workers' representatives, has been an inherent part of European socio-economic processes for decades. The rights to organise, to bargain collectively and to strike – all essential components of this dialogue – are not only democratic principles underlying modern economic processes, but fundamental rights enshrined in the European Convention on Human Rights (ETS No. 5) and the European Social Charter (revised) (ETS No. 163).

2. However, these fundamental rights have come under threat in many Council of Europe member States in recent years, in the context of the economic crisis and austerity measures. In some countries, the right to organise has been restricted, collective agreements have been revoked, collective bargaining undermined and the right to strike limited. As a consequence, in the affected countries, inequalities have grown, there has been a persistent trend towards lower wages, and negative effects on working and employment conditions have been observed.

3. The Parliamentary Assembly is most concerned by these trends and their consequences for the values, institutions and outcomes of economic governance. Without equal opportunities for all in accessing decent employment and without appropriate means of defending social rights in a globalised economic context, the inclusion, development and life chances of whole generations will be put into question. In the medium term, the exclusion of certain groups from economic development, wealth and decision-making could seriously damage European economies and democracy itself.

4. Investing in social rights is an investment in the future. In order to build and maintain strong and sustainable socio-economic systems in Europe, social rights need to be protected and promoted.

5. In particular, the rights to bargain collectively and to strike are crucial to ensure that workers and their organisations can effectively take part in the socio-economic process to promote their interest in wages, working conditions and social rights. "Social partners" should be considered as what they are: "partners" in achieving economic performance, and sometimes opponents in striving to find a settlement of their interests in the distribution of power and scarce resources.

6. A change in mindsets is required across Europe and beyond, if we are to overcome the current crisis situation and turn towards a new economic era in the 21st century.

7. The Assembly therefore calls on the member States to take the following measures to uphold the highest standards of democracy and good governance in the socio-economic sphere:

7.1. Protect and strengthen the rights to organise, to bargain collectively and to strike by:

7.1.1. ratifying and implementing the European Social Charter (revised), if this has not yet been done;

7.1.2. developing or revising their labour legislation to make it comprehensive and solid with regard to these specific rights;

7.1.3. restoring these rights wherever institutions and processes have already been undermined by recent legislative or regulatory changes;

7.2. Make economic stakeholders accountable for ensuring that the rights to organise, to bargain collectively and to strike are upheld by:

7.2.1. ratifying and implementing the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158), if this has not yet been done;

7.2.2. supporting the enforcement, through labour legislation, of collective instruments such as "collective redress" (in particular for trade unions), aimed at the prevention of unlawful business practices;

7.2.3. setting up or maintaining effective labour inspections provided with sufficient resources;

7.3. Change the focus of current policies, by ending financial and economic austerity policies and putting emphasis on proactive investment policies, such as co-ordinated minimum levels of investment, stronger involvement of social partners and the promotion of decent work for all;

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2. Draft resolution adopted unanimously by the committee on 2 December 2014.

7.4. Strive for utmost coherence between decisions taken in different institutional and judicial contexts, including in the framework of the European Union, at the national level and at Council of Europe level, so as to ensure the effectiveness of existing mechanisms for the protection of social rights.

B. Explanatory memorandum by Mr Hunko, rapporteur

1. Introduction

1. The Parliamentary Assembly has repeatedly underlined the importance of protecting and defending social rights as an integral and indivisible part of human rights, such as in Resolution 1884 (2012) "Austerity measures – a danger for democracy and social rights". In the context of economic and political crises in Europe, social and democratic rights are at risk. The right to freedom of assembly and association with others, including the right to form and to join trade unions for the protection of one's interests and the right to bargain collectively and to strike, constitutes a fundamental right guaranteed by the European Convention on Human Rights (ETS No. 5, "the Convention") and the European Social Charter (revised) (ETS No. 163).

2. Nevertheless, these rights are under threat today. In the context of the economic and social crisis and the increased levels of unemployment in many countries, they are often questioned as elements of overly rigid labour markets, and have thus been seriously weakened through legislative and executive action. While some of the measures – when seen individually – might modify the systems of collective bargaining within the limits of fundamental social and economic rights, others constitute excessive restrictions of rights. The overall – individual and combined – effect of measures taken should therefore be closely monitored.

3. In the present report, I wish to examine the concrete impact of recent reforms and current developments on labour relations and, ultimately, on the quality of employment through different country case studies. Moreover, the precedence of economic freedoms over fundamental rights in the European Union will be critically examined. The objective will be to formulate policy recommendations for European and national levels aimed at protecting and promoting the right to bargain collectively, including labour conflicts and "social dialogue", as an essential component of the European Social Model and fundamental value of European market economies.

2. European and international standards protecting collective bargaining as a fundamental right and current national practice

4. The right to freedom of assembly and association with others, including the right to form and to join trade unions for the protection of one's interests, constitutes a fundamental right guaranteed by Article 11 of the European Convention on Human Rights. In its case law, the European Court of Human Rights ("the Court") unanimously decided that Article 11 encompasses a right to collective bargaining and a right to strike for unions.[3] In addition, the right to organise and to bargain collectively in a labour context and the right to strike are respectively guaranteed by Articles 5 and 6 of the European Social Charter (revised). Also of relevance in this context is the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) according to which certain international and national non-governmental organisations may "submit complaints alleging unsatisfactory application of the Charter"; this mechanism is regularly used by national trade unions.[4]

5. At European Union level, the Charter of Fundamental Rights of the European Union provides for the right of collective bargaining and action in its Article 28. The development of a coherent European approach to collective redress aimed at preventing unlawful business practice has been under consideration for a while, but has so far only led to non-binding recommendations at the European Union level.[5]

6. For the International Labour Office,[6] collective bargaining is one of the main pillars of the European Social Model,[7] which is currently further being explored in another report prepared by the Committee on Social Affairs, Health and Sustainable Development.[8] Collective bargaining is a fundamental right rooted in

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3. The unanimous decision of the Grand Chamber in the case *Demir and Baykara v. Turkey* (Application No. 34504/97, judgment of 12 November 2008) explicitly revoked the previous case law, introducing a fundamental change in the understanding of the freedom of association under Article 11. In subsequent cases (starting with *Enerji Yapi-Yol Sen v. Turkey* (Application No. 68959/01, judgment of 21 April 2009), this line of thought was consequently developed further, so that the right to collective bargaining and the right to strike are recognised as an integral part of the freedom of association under Article 11 of the Convention.

4. See the website of the European Social Charter – page on the collective complaints mechanism: www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints_en.asp.

5. The European Commission recommends that member States have collective redress mechanisms in place to ensure access to justice, http://ec.europa.eu/justice/newsroom/civil/news/130611_en.htm.

6. The International Labour Office is the permanent secretariat of the International Labour Organization (ILO), see: http://ilo.org/global/about-the-ilo/who-we-are/international-labour-office/lang--en/index.htm.

the ILO Constitution, specified in Conventions Nos. 98, 151 and 154, and reaffirmed as such in the 1998 ILO Declaration on Fundamental Principles and Rights at Work. The ILO further defines collective bargaining as "a key means through which employers and their organizations and trade unions can establish fair wages and working conditions. It also provides the basis for sound labour relations". In practice, typical issues on the bargaining agenda include wages, working time, training, occupational health and safety and equal treatment as well as other employment and working conditions. Enhancing the inclusiveness of collective bargaining and collective agreements is generally perceived as a key means for reducing inequality and extending labour protections.[9]

7. At the national level and according to available EU data (28 EU States plus Norway), the proportion of employees covered by collective bargaining – main indicator of this right – varies from well over 90% to 15%. The countries at the top of the table either have high levels of union membership, as in the Nordic countries, or have legal structures which ensure that collective agreements have a wide coverage. In the countries at the bottom of the list, enterprise-level bargaining dominates. In some countries, such as Belgium, Italy or Sweden, there are links between different levels of bargaining, but in others, like Luxembourg or Cyprus, various levels simply coexist. Overall, the trend seems to be towards greater decentralisation and the development of transnational corporations, and the crisis has clearly accelerated these trends.[10]

Table 1[11]

Country	Employees covered by collective bargaining (%)	Key level of collective bargaining
France	98%	Industry and company
Belgium	96%	National (sets framework)
Austria	95%	Industry
Portugal	92%	Industry
Finland	91%	Industry – but much left to company negotiations
Slovenia	90%	Industry
Sweden	88%	Industry – but much left to company negotiations
Netherlands	81%	Industry (also some company)
Denmark	80%	Industry – but much left to company negotiations
Italy	80%	Industry
Norway	70%	National and industry
Spain	70%	Industry – but new law gives precedence to company agreements
Greece	65%	Industry, but crisis has given greater role to company negotiations
Croatia	61%	Industry and company
Malta	61%	Company
Germany	59%	Industry
Cyprus	52%	Industry and company
Luxembourg	50%	Industry and company (varies according to sector)
Ireland	44%	Company
Czech Republic	38%	Company
Romania	36%	Industry and company
Slovak Republic	35%	Industry and company
Latvia	34%	Company
Estonia	33%	Company

7. Vaughan-Whitehead, Daniel (editor), The European Social Model in times of economic crisis and austerity policies, International Labour Office, Geneva, February 2014, see the executive summary under: www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---ilo-brussels/documents/publication/wcms_236720.pdf.
8. "Towards a new European Social Model" (rapporteur: Ms Maria de Bélem Roseira, Portugal, SOC); foreseen for debate in 2015.
9. ILO Topics: Collective bargaining and labour relations: http://ilo.org/global/topics/collective-bargaining-labour-relations/lang--en/index.htm.
10. European Trade Union Institute (ETUI), Collective bargaining: www.worker-participation.eu/National-Industrial-Relations/Across-Europe/Collective-Bargaining2.
11. Ibid.

Country	Employees covered by collective bargaining (%)	Key level of collective bargaining
Hungary	33%	Company
Bulgaria	30%	Company
United Kingdom	29%	Company
Poland	25%	Company
Lithuania	15%	Company
EU average	62%	
Average, including Norway	62%	

3. Current threats to the right to bargain collectively, including the right to strike

8. When looking at threats generated by the economic crisis, but also by the dynamics of globalisation, we need to distinguish impacts on social dialogue as such, and their consequences for employment and working conditions felt by the individual. Accordingly, I would like to examine structural trends in the field of labour relations at different levels, including: 1) legislation and policies linked to collective bargaining processes and agreements as such (as elements structuring the "social dialogue"); 2) their actual or potential outcomes for the working population, for example on wages or safe and healthy working conditions. Selected countries may serve as examples to illustrate some of the recent or current developments.

3.1. Interference with labour relations as responses to the crisis

9. The financial and economic crisis has led to a sharp increase in unemployment. The predominant view amongst European governments and other stakeholders, such as the employers, is that this unemployment is to a large extent the result of rigid institutional frameworks concerning the labour market. Consequently, legislative and executive action has been taken in many member countries of the Council of Europe to introduce more flexible elements – often sold as the modern but controversial concept of "flexicurity".[12] It is not only high unemployment, precarisation, for example by changing the status of workers to "self-employment", and outsourcing that have affected the exercise of collective rights. In my view, austerity policies reinforce the current negative trends in the labour market instead of effectively addressing them. This view was also expressed by the Assembly in its Resolution 1884 (2012) "Austerity measures – a danger for democracy and social rights".

10. Some of the reforms of labour markets in regulation and practice have also had direct consequences for the right to bargain collectively. Amongst others, measures have tended to or continue to lead to the decentralisation of collective bargaining systems, to the weakening of these systems, to a weakening of the unions, to direct interventions in systems of collective bargaining and to the prohibition of strikes.[13] These trends may be illustrated through selected examples that illustrate how the existing systems of collective bargaining have changed in different contexts.

3.1.1. Greece[14]

11. Greece, like some other countries, has recently seen its collective bargaining system dismantled and widely replaced by enterprise-level agreements, thus at the same time weakening or discontinuing permanent collective representation at enterprise level. Negotiations aimed at renewing collective bargaining agreements have almost ceased and trade unions have almost no influence anymore. Already more than a year ago, Guy Ryder, ILO Director-General, stated that "the interventions of the Troika in EU programme countries have created serious difficulties for collective bargaining and social dialogue, and that in some of the worst hit countries, such as Greece, social dialogue even stopped functioning".[15]

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12. See the definitions and interesting activities of the European Foundation for the Improvement of Living and Working Conditions (Eurofound), tripartite European Union Agency based in Dublin (Ireland): www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/flexicurity.htm.

13. Arbeiterkammer Wien, Die Finanzkrise und ihre Auswirkungen auf Sozialstaaten (Chamber of Labour of Vienna, The Financial Crisis and its Effects on Welfare States), Infobrief EU und International, Ausgabe 5, December 2012 (p. 4, Table 5), http://media.arbeiterkammer.at/PDF/EU_Infobrief_5_2012.pdf.

14. All information provided in this chapter is taken from: ILO Working Paper No. 38, Social dialogue and collective bargaining in times of crisis: The case of Greece, Eleni Patra, Geneva, 2012.

12. In order to respond to the crisis, Greece introduced major changes to laws concerning collective bargaining. Laws that used to guarantee certain standards of working conditions, wages and the means of achieving collective agreements, were notably changed under the impact of the "Memorandum of understanding" between Greece and the Troika (European Commission, European Central Bank (ECB) and International Monetary Fund (IMF)), one of the first consequences of which was the suspension of collective agreements.

13. Subsequent legislation passed in the country also led to the prohibition of salary increases and limited benefits and allowances, first in the public service, later also in the private sector.[16] After 2011, salary increases were only allowed if covered by the National General Collective Agreement (EGSSE). As of 2012, and still under the austerity programme, new legislation brought further substantial changes to collective agreements by limiting their validity periods.[17]

14. Another example illustrating how the system of collective bargaining was changed through the new legislation is the strengthening of alternative representation to unions or workers' councils, notably the so-called "association of persons". This form of representation was originally created to secure the participation of employees in small and medium-sized enterprises where no unions existed. This role was undermined by new legislation which now extends the possibilities for creating such associations in all small and medium-sized enterprises, even those where unions exist.The fact that a three-fifths majority of the employees may decide on the creation of such associations, opens the doors to pressure exerted by employers to conclude unfavourable agreements.[18]

15. Furthermore, in 2010, the concept of "special enterprise agreements" was introduced, allowing for pay and terms of employment to deviate from those of branch agreements.[19] Nowadays, nearly 50% of the collective agreements concluded every year are such "special enterprise agreements", thus concerning 4 000 enterprises with about 700 000 employees, most of them concluded with an "association of persons".

3.1.2. Portugal

16. The trend of dismantling the overall collective bargaining system could also be seen in Portugal: according to the European Trade Union Confederation (ETUC), the 116 agreements negotiated in 2010 had gone down to 9 by 2013, whilst the number of workers covered had decreased from 1.5 million to 300 000 (in 2012).[20] The adjustment programme of the Troika ended the automatic extension of sectorial collective agreements and introduced high representativeness criteria for an extension. In practice, the Ministry of Labour and Social Solidarity has not extended collective agreements since June 2011.

17. The Decree-Law 19/2013 issued in February 2013 was adopted without prior consultation with the social partners and imposed on workers in the banking sector the suspension of the collective agreements that were in force. The *Sindicato dos Bancários do Sul e Ilhas* filed a complaint with the ILO against this violation of its rights.[21] Concerning limitations on strikes, the excessively long list of "services of public utility" in which operational service can be imposed in the event of strikes, include a wide range of sectors: food production and distribution; public transport; pharmaceutical production; shipyards; banking; and the national defence industry.

3.1.3. Romania

18. With the purpose of applying austerity measures, the Romanian Government passed new legislation which had a direct impact on collective agreements.[22] This legislation was, *inter alia,* the outcome of a round table involving Romanian tripartite constituents, the IMF, the World Bank, the European Commission and the ILO, and introduced the first substantial changes in 20 years.[23] The new legislation notably limited the

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15. Guy Ryder, "Social dialogue is and must be part of the solution to the crisis", News item published on 19 April 2013, ILO website: www.ilo.org.
16. Notably Laws 3833/2010 and 3871/2010.
17. Notably Law 4046/2012, including a "Financial Facility Agreement".
18. As regulated by Law 1264/1982, then completed by Law 4024/2011.
19. See Law 3899/2010, Article 13.
20. Information provided by Ms Veronica Nilsson, Confederal Secretary, European Trade Union Confederation (ETUC), in an exchange of views with the committee on 24 June 2014 in Strasbourg on "Social rights and social dialogue in times of crisis".
21. International Trade Union Confederation (ITUC), Global Rights Index 2014 – Portugal, 19 May 2014: www.refworld.org/docid/53bcf98f8.html.
22. Notably Laws 40/2011 and 62/2011 (amending the Romanian Labour Code).

duration of collective agreements to a minimum period of 12 months and a maximum of 24 months (while no maximum limits existed beforehand) and abolished all kinds of collective agreements and bargaining at the national level. To establish a trade union, it is now necessary to gather at least 15 employees of the same unit (enterprise), while the previous law only required 15 employees of a same branch or profession. The fact that about 90% of all enterprises in Romania employ less than 10 employees therefore makes it impossible for most workers to organise and defend their rights.

19. According to the ILO, the new Romanian approach clearly constitutes an undue interference in a collective bargaining system as guaranteed by fundamental international labour standards.[24] Since 2011, collective agreements may be negotiated at the level of an enterprise, a group of enterprises or a branch of activity. Especially the abolition of collective agreements at the national level is to be considered as a violation of the principle of free and voluntary collective bargaining.

3.1.4. Spain

20. In Spain, several legislative changes affecting the collective bargaining system were recently introduced; certainly also under the pressure of austerity and the search for more flexible approaches. The principle of favourability was inverted, so that agreements at the enterprise level now have precedence over higher-level agreements. This already far-reaching change was amplified by allowing non-union groups of workers to conclude collective agreements. Subsequently, the influence of unions has been distinctly reduced and collective agreements increasingly decentralised to enterprise level.

21. A third major change in the balance of power between social partners was implemented by limiting the residual action of collective agreements: previous agreements had always remained valid until a new one was reached, whereas any agreement concluded from now on will lose its impact after one year. This new way of functioning not only strips workers of the agreed protection of their interests, but also puts their representatives in a weaker position in the bargaining process, and will decrease the employers' interest in concluding collective agreements, thus resulting in lower collective bargaining coverage. Furthermore, enterprises have been enabled not to apply collective agreements not only for economic reasons, but as well for technical, organisational or process-related reasons. At the beginning of the crisis, the government was focused on negotiating its policy with the representatives of enterprises and workers and only after the failure of social dialogue did they start implementing emergency decrees. However, the new government is characterised by a unilateral approach that even overruled existing collective agreements.[25]

22. Generally, Spanish workers' organisations face more judicial pressure against their collective action. The current "manifest in defence of the right to strike and of union freedoms" states that, after 35 years of constitutionally guaranteed rights, public authorities are challenging these rights, as indicated by the 200 judicial cases against union members for calling for and organising legitimate strikes.[26]

3.2. Undermining of the social dialogue for different reasons

23. In some national contexts, collective bargaining systems may be under pressure generated independently of the austerity agenda at the European level, even though they may reflect the current economic context and the intention to make savings at different levels or to improve (investment) conditions for employers. In some cases, such as in my own country Germany, the social dialogue needs to be modernised by overcoming traditional approaches such as a limited right to strike for civil servants.[27] Germany and Turkey shall therefore serve as examples for the prevalence of various threats or obstacles to collective bargaining systems.

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23. All information provided in this chapter is taken from: The impact of Legislative Reforms on Industrial Relations in Romania, Luminita Chivu, Constantin Ciutacu, Raluca Dimitriu and Tiberiu Ticlea, ILO, 2013.
24. In particular according to Article 4 of Convention No. 98 of the ILO (ratified by Romania).
25. Arbeiterkammer Wien, Infobrief EU und International, Ausgabe 4, December 2014, http://media.arbeiterkammer.at/wien/EU_Infobrief_2014_4.pdf, p. 19.
26. Confederación Sindical de Comisiones Obreras (CCOO) and Unión General de Trabajadores (UGT), Manifiesto en defensa del Derecho de Huelga y de la Libertad Sindical, June 2014, www.huelganoesdelito.org.
27. In Germany, the prohibition of strikes for civil servants is considered as an element of loyalty towards the State and as a counterpart to the numerious privileges of civil servants (for example permanency and alimentation principle), see: Widmaier, Ulrich; Alber, Siegbert: Menschenrecht auf Streik auch für deutsche Beamte? [Human right to strike also for German civil servants?], *Zeitschrift für europarechtliche Studien* (ZEuS), No. 4/2012.

3.2.1. Germany

24. The right to strike in Germany has been shaped by court decisions, given that there is no explicit right to strike in the Federal Constitution (*Grundgesetz*) – even though the Constitutions of several federal States (*Länder*) include relevant provisions. In the absence of specific legislation, court decisions are generally based on the freedom of association protected by the *Grundgesetz*.

25. Obviously, there are differing understandings of collective bargaining and the right to strike in bodies related to the European Convention on Human Rights and the European Social Charter (revised) on the one hand and at the national level on the other. The European Committee of Social Rights has concluded, for example, that the situation in Germany is not in conformity with Article 6.4 of the European Social Charter on the grounds that: 1) strikes not aimed at achieving a collective agreement are prohibited (no possibility to strike for ensuring safety and health regulations in the workplace or reacting to dismissals); and 2) the requirements to be met by a group of workers to form a union satisfying the conditions for calling a strike constitute an excessive restriction to the right to strike.[28]

26. The European Court of Human Rights has also made it clear in several judgments that the ban on strikes for civil servants constitutes a violation of Article 11 of the Convention, as only particular categories chosen by functional criteria should be excluded from the right to bargain collectively, including the right to strike. Article 33.5 of the German Constitution does not contain a general ban on strikes for civil servants, but may limit their rights in practice.[29] The German courts and legislation should therefore better take into consideration the guarantees for a right to strike under international law and give more priority to overcoming non-conformity with international obligations. In this respect, I recall the case law of the German Constitutional Court on Article 46.1 of the Convention that obliges Germany to follow the decisions of the European Court of Human Rights in principle also when these are against other States Parties.[30]

27. Current trends, however, rather point in the opposite direction: The German Government recently announced new legislation aimed at establishing a single collective agreement for the workers of one enterprise. This *"Tarifeinheit"* (tariff uniformity) law aims at expanding the duty not to engage in industrial action beyond the contracting parties of a collective agreement, for example to other unions and their members. Whilst the political goal of achieving more unity in workers' representation may be legitimate, the attempt to decree such unity by law is hardly compatible with the rights to bargain collectively and to strike according to Article 11 of the Convention. It is evident that several trade unions in Germany are fierce opponents of the proposal.[31]

28. Germany is also currently the scene of a labour conflict which seems symptomatic in times of globalisation: For more than a year, employees of Amazon in Germany have repeatedly gone on strike in order to fight for their right to a collective bargaining agreement as guaranteed by German legislation.[32] In this case, national legislation can be considered in conformity with international standards, but there are obstacles to implementation in an international enterprise. In my view, notably concerted European action may help the workers concerned to face their transnational employers.

3.2.2. Turkey

29. Turkey has not ratified Articles 5 and 6 of the European Social Charter and has a long history of cases on collective rights before the European Court of Human Rights. The amendment of the Constitution in 2010, which allows for the improvement of trade union rights of civil servants and employees in the public sector, were welcomed as a promising signal. However, in 2012, trade unions reported that their objections had not sufficiently been taken into consideration in the drafting process of the new legislation.[33]

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28. See European Committee of Social Rights: Conclusions on Germany, December 2010, p. 14, www.coe.int/t/dghl/monitoring/socialcharter/conclusions/State/GermanyXIX3_en.pdf.

29. In the case of a teacher being a civil servant and taking part in a strike, the administrative court suspended the disciplinary penalty of the regional government in line with the rulings of the European Court of Human Rights. However, in the appeal proceedings, two courts ruled against the teacher's complaint; the decision by the Constitutional Court is pending (also in respect of further cases).

30. Patrick Fütterer, *Europäische Zeitschrift für Arbeitsrecht (EuZA)*, Volume 4/2011, S.505-520 (BVerfG, 19 September 2006 – 2 BvR 2115/01 and others).

31. See German Confederation of Trade Unions (*Deutscher Gewerkschaftsbund – DGB*), *Einblick: DGB-Bundeskongress: Kurs gesetzt,* May 2014, http://einblick.dgb.de/++co++f3147faa-e288-11e3-b34b-52540023ef1a.

32. www.dw.de/amazon-workers-in-germany-strike-again/a-17938866.

33. See Trade Unions and Collective Agreement Act No. 6356; International Trade Union Confederation: Survey of violations of Trade Union Rights – Freedom of Association, Collective Bargaining, Strike, http://survey.ituc-csi.org/Turkey.html?lang=en, also for subsequent information provided on Turkey.

30. The EU-Turkey Joint Consultative Committee has regularly affirmed that the government cannot use the lack of consensus in consultations as an argument for not bringing Turkish legislation into line with international standards and noted that the newly amended law further limits collective bargaining.[34] It may be noted that its 2013 report notes several improvements introduced by the new legislation. It refers to remaining areas of concern, notably the lack of protection against anti-union discrimination for workers in small companies, the obstacles to gaining competence for collective bargaining and the restriction on the right to strike.[35] Nevertheless, the abrogation of the ban of strikes in the airline sector is certainly to be welcomed.

31. Despite the expectations arising from the constitutional amendment of 2010, the actual changes in legislation are disappointing and still have not established the right to organise for all civil servants. Current legislation still prevents a number of employees from joining unions, including workers in the armed forces, civilian officials and civil servants in the Ministry of National Defence, the Turkish armed forces, and the police, as well as a number of other professions.[36] However, the Constitutional Court has challenged some of these regulations, notably with regard to the latter categories (civil servants in the Ministry of National Defence, the Turkish armed forces, and the police). In the public sector, the right to collective bargaining remains unduly restricted and the right to strike is still non-existent.

32. Turkish legislation moreover still provides a broad range of restrictions on trade unions' right to organise their administration, to elect representatives and to fully self-administer, such as:

– the removal of union executive bodies can be requested by the Ministry of Labour and Social Security in case of non-respect of requirements concerning meetings and decisions of general assemblies;[37]

– strict regulations are imposed on the composition and internal functioning of trade unions (such as the number of executive board members or the quorum required for the adoption of decisions);[38]

– if a union seriously contravenes the laws governing its activities, it can be forced to suspend its activities or enter into liquidation by order of a labour tribunal, and (like in the previous legislation) trade union officers' mandates end if they are elected members of parliament;

– to take a decision, the absolute majority vote of members present of the general assembly is required (and in any case not less than one fourth of the total number of members);

– a strict procedure needs to be followed for the election of authorities of trade unions, and involves the supervision by judicial authorities;

– aid or donations from political parties and other public institutions or organisations is prohibited.

33. The right to strike is limited in the following manner by the latest Turkish legislation:

– strikes are only permitted if they are the result of a dispute during collective bargaining negotiations;

– it is not lawful to call a strike in the following sectors: funeral and mortuary, natural gas and petroleum, petrochemical works, productions based on naphtha or natural gas;

– a lawful strike or lockout that has been called or commenced may be suspended by the Council of Ministers for 60 days with a decree if it is prejudicial to public health or national security. If an agreement is not reached within that period, the matter may be referred to compulsory arbitration.[39]

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34. EU-Turkey Joint Consultative Committee: Preliminary update of the report on Trade Union Rights Situation in Turkey, June 2012, www.eesc.europa.eu/?i=portal.en.events-and-activities-30th-eu-turkey-jcc-documents.24638; 33rd meeting of 20 June 2014, Joint Declaration: "The JCC recalls that the Turkish government should fully implement the relevant ILO conventions for civil servants and align with them its legislation on freedom of association, civil servant collective bargaining and arbitration board structure", paragraph 10, www.eesc.europa.eu/resources/docs/eu-turkey-jcc_33rd-meeting_joint-declaration_final.pdf.

35. EU-Turkey Joint Consultative Committee, Trade Union Rights Situation in Turkey, p. 9 f, www.eesc.europa.eu/resources/docs/joint-report-on-trade-union-rights_final.doc.

36. These include judges and public prosecutors (see Report of the ILO Committee on Freedom of Association in Case No. 2892: "The Committee requests the government to renew its efforts, in consultation with the social partners, so as to bring Act No. 4688 into conformity with Convention No. 87 to ensure the right of judges and public prosecutors to establish trade unions to defend their occupational interests", Report No. 371, March 2014, paragraph 936.*a*, www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:3171920, financial auditors, employees of penal institutions, special security personnel, public employees "in positions of trust", presidents of universities and directors of higher schools.

37. According to Article 10(8) of Act No. 6289 on public servants' unions and collective agreement.

38. The new Law on Trade Unions and Collective Labour Agreements (No. 6356)

39. See Articles 58, 62 and 63 of the new Law on Trade Unions and Collective Labour Agreements (No. 6356).

34. Some of these regulations clearly violate the right to strike as defined in the European Social Charter.[40] The possibilities provided to end strikes are open to abuse. For example, the Council of Ministers ended a major strike in the glass industry on far-fetched grounds of "public health and national security". In their complaint letter to the ILO, the unions deplored that the "provision relating to suspension of the labour legislation had been misused systematically by the Government of Turkey to undermine the freedom of association and the right to strike".[41] In order to comply with international standards, the Turkish Government and courts should therefore strictly adhere to the limitations of restrictions to the right to strike according to Article 11.2 of the European Convention on Human Rights. Most recently, the need to comply with international standards was confirmed by the European Union Progress Report 2014 on Turkey.[42]

3.3. Reasons for dismantling social dialogue and consequences for labour markets

35. The few country examples described above show that the rights to bargain collectively and to strike are facing various pressures, threats and obstacles in modern economies. Some of these are linked to joint European responses to the economic and financial crisis or austerity programmes imposed on countries by the Troika and other stakeholders. Others are rather linked to specific national contexts in which social partners find it difficult to overcome traditional patterns (for example Germany) or where the economy also follows an overall trend of reinforcing the role and influence of the State (for example Turkey).

36. Some of the current challenges are clearly linked to globalisation trends. Transnational corporations facing different national labour markets are increasingly in a position to negotiate working conditions of their employees "downwards", under threat of delocalising activities to another country where conditions are more favourable for employers. Smaller enterprises cannot compete with larger ones in this respect, and are often following similar trends of dismantling social rights. I recall the European Parliament's resolution on cross-border collective bargaining and transnational social dialogue[43] that addresses the missing legal framework for transnational agreements between unions and employers. I share the conviction expressed therein that "the inclusion of the most favourable clause and the non-regression clause is necessary to avert the danger that a European transnational company agreement might result in evasion of national collective agreements and national company agreements, or impair them". But also without a specialised legal framework, Article 28 of the European Union Charter of Fundamental Rights guarantees the right to negotiate collective agreements at the appropriate level and the right to collective action – even without a limitation to appropriate levels. I also recall that the issue of transnational corporations was already explored by the Assembly in its activities leading up to Resolution 1993 (2014) on decent work for all, in which it calls for the guarantee "[of] coherent implementation of global core labour norms and relevant provisions of the European Social Charter, in particular those concerning freedom of association and collective bargaining, fair remuneration and social coverage, non-discrimination and employment services, protection of minors and a healthy and safe work environment".

37. International standards also have varying positions in different member States of the Council of Europe. While some have never fully ratified central social rights instruments such as the European Social Charter, others have done so, but fail to accept all articles and/or to implement relevant articles. In the light of the short- and long-term consequences of dismantled collective bargaining systems, it is of utmost importance that countries uphold the meaning of international standards that they have subscribed to already or that they aspire to through their membership of European institutions such as the Council of Europe.

38. It is evident that, in an evolving socio-economic context, labour relations and conditions may also constantly evolve to respond to topical challenges. However, while some of the measures described above, when seen individually, may modify the systems of collective bargaining within the limits of fundamental rights, others clearly constitute an excessive restriction of rights. Any restrictions on the right to collective bargaining, including the right to strike, can only by reconcilable with the European Convention on Human Rights and the

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40. European Committee of Social Rights: Digest of the Case Law of the European Committee of Social Rights, September 2008, p. 56, www.coe.int/t/dghl/monitoring/socialcharter/digest/DigestSept2008_en.pdf.

41. Glass, Cement and Soil Workers Union of Turkey: Letter to the Director-General of the ILO, July 2014, www.industriall-union.org/sites/default/files/uploads/documents/Jyrki_Letters/kristal_is_ilo_complaint_2014_final52.pdf

42. European Commission (DG Enlargement), Turkey Progress Report, October 2014: "The right to organise, to enter into collective bargaining and the right to strike for private sector employees and civil servants have to be aligned with the acquis and international standards", p. 16, http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf#page=1&zoom=auto,-178,842.

43. www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2013-0386&language=EN&ring=A7-2013-0258.

European Social Charter when they are "necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others".[44]

39. The European Trade Union Confederation (ETUC) believes that some of the measures required by the Troika in programme countries were wrong and too far-reaching: the pace of fiscal consolidation was too ambitious, the programmes focused too much on cutting public spending, social dialogue was not respected, and social protection and collective bargaining systems were dismantled. In some countries, austerity measures had been imposed without proper consultation of social partners (for example in Cyprus, many meetings had been held with employers, but only two with the trade unions) or negotiated agreements had not been respected (for example the "tripartite agreement on growth, competitiveness and employment" of 2012 in Portugal which was overruled by the Troika's recommendation to restrict the legal extension of collective agreements). Minimum wages were cut far below the acceptable and social partners were no longer given any say (for example in Greece, where minimum wages were cut by 22% overall and 32% for young workers up to 24 years of age, or in Portugal, where agreed increases of minimum wages were frozen).

40. According to the ETUC, however, some of the current trends leading to the weakening of the European Social Model are not a sheer necessity resulting from the crisis. They are considered as a political choice that was made well before the financial and economic crisis, while measures continue to be "sold" to people as an inevitable response to the current situation. Other stakeholders, like European employers' federations, while convinced that fostering competitiveness, growth and employment is the main challenge for European economies today, believe that some of the current problems are not predominantly linked to the crisis (which has only exacerbated them), but are based on longstanding structural weaknesses of European labour markets which need to be overcome. Amongst measures to be applied, they see the reduction of non-wage labour costs and certain adaptations to the system of industrial relations, which may benefit from decentralisation trends at the national level.[45] As rapporteur of the present report, I would admit that industrial relations certainly do need to evolve, but I am convinced that global competitiveness must not be an argument for dismantling social rights standards in Europe. The European Social Model is still a value worth being protected and which could serve as "good practice" and orientation to other parts of the world.

41. I further agree with the view of ETUC that social dialogue and collective bargaining are long-standing rights of workers which deserve to be protected as cornerstones of democracy.[46] In this respect, I would also like to recall Assembly Resolution 1884 (2012) "Austerity measures – a danger to democracy and social rights", in which we called on national governments to "prevent the undermining of existing democratic standards when it comes to decisions linked to the 'sovereign debt crisis' and possible joint European action to be taken, by preserving maximum possible discretion for national governments and other national democratically legitimated institutions, in particular parliaments". Next to governments and parliaments, the democratically legitimated institutions also clearly include the trade unions, which are one expression of the self-organisation of employees and their right to be involved in decision-making processes.

42. As a regular observer of these socio-economic trends across Europe, I believe that the weakening of national collective bargaining systems will have a significant negative impact on a number of social rights which have been achieved over many years and decades of social dialogue. The extent to which collective bargaining coverage will be lowered is also expected to have a significant influence on the proportion of low-wage earners.[47] In my view, we cannot yet fully estimate the impact on wages or safe and healthy working conditions, and further subsequent consequences that this may have on income levels, people's well-being and social cohesion in our societies.

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44. Article 11.2 of the Convention; see also Article G of the European Social Charter.
45. Position presented by Mr Maxime Cerutti, Director of the Social Affairs Department, Business Europe (European Employers' Federation), in an exchange of views with the committee on 2 December 2014 on "Social rights and social dialogue in times of crisis".
46. Information provided by Ms Veronica Nilsson, Confederal Secretary, ETUC, at an exchange of views with the committee on 24 June 2014 in Strasbourg on "Social rights and social dialogue in times of crisis".
47. European Trade Union Institute (ETUI), Benchmarking Working Europe 2014 (p. 78, see Figure 5.9), www.etui.org/Publications2/Books/Benchmarking-Working-Europe-2014,

4. Contradictory European responses: European Union legislation and crisis management versus national and European obligations

43. By undermining collective bargaining, the traditional social dialogue as an important pillar of the European Social Model is called into question, and the balance of power between the – increasingly global – employers and – still very local – employees are profoundly altered. Any evolution taking a wrong, non-democratic orientation should be stopped now and fundamental social rights should be protected and promoted to the greatest extent possible. To this end, European standards and action should be harmonised and guaranteed at a high level in order to apply coherent responses to European and global challenges, which is not the case today.

4.1. European Union legislation and case law and international obligations

44. The Charter of Fundamental Rights contains a right to strike in Article 28. The Charter also states in Article 52.3, that if "any of the rights correspond to rights guaranteed by the European Convention on Human Rights, the meaning and scope of those rights is to be the same as defined by the convention, though EU law may provide for more extensive protection". Moreover, Article 53 defining the level of protection, not only refers to the European Convention on Human Rights, but also, *inter alia*, to international agreements to which all member States are Party. This includes, for example, the United Nations Covenant on Economic, Social and Cultural Rights, the eight core conventions of the ILO on freedom of association, prohibition of forced and child labour as well as discrimination and on labour inspection as well as, at Council of Europe level the European Social Charter (be it in its original version of 1961 or the revised version of 1996). Additionally, the preamble of the Treaty on European Union (TEU) as well as Article 151 of the Treaty on the Functioning of the European Union (TFEU) explicitly refer to the "fundamental social rights" as defined in the European Social Charter.

45. Furthermore, the European Union has committed itself in the Memorandum of Understanding with the Council of Europe to ensure coherence of EU law with relevant conventions of the Council of Europe. However, in May 2014, the Secretary General of the Council of Europe, in his report "State of Democracy, Human Rights and the Rule of Law in Europe", once again addressed the "inconsistency between EU law and principles of the European Social Charter" as one of the main challenges in the area of social rights.[48]

46. Concerning the right to strike, it is worthwhile elaborating on the differences between the legal systems of the European Union and the Council of Europe: The relation between collective bargaining and the right to strike on the one hand, and the freedoms prevailing in the internal market of the European Union on the other, was challenged by the Court of Justice of the European Union in its decisions on the broadly discussed cases *Viking* and *Laval*. Although the court made references to the relevant international conventions, it neither took into account their range of application, nor the preconditions for restricting the right to strike as laid down in the European Social Charter and the Convention. While the Court of Justice took the precedence of the freedoms of the internal market over social rights as a starting point for its reasoning, it failed to take into account that these freedoms could be taken as a basis to allow restrictions in accordance with Article 11.2 of the Convention, only in so far as, in a democratic society, these would have had to be required in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. The Court of Justice should – as has happened before and is required by the Charter of Fundamental Rights (legally binding since 2009) – adapt its decisions to the rulings of the European Court of Human Rights.

47. From the perspective of the Convention and the European Social Charter, and considering the guarantee of these rights in the European Union (Charter of Fundamental Rights), there is an evident right to strike that is not limited to national level. The right to a European, transnational strike could only by restricted on the conditions of the Convention as developed by the European Court of Human Rights that has claimed at no point that restrictions to the right to strike could be legitimate to protect transborder economic activity. There are no reasons why such a protection of economic activity should be necessary in a democratic society in the sense of Article 11 of the Convention. Clarifying the situation and strengthening the right to strike at European level should therefore be a priority for the Council of Europe, its member States as well as the EU bodies.

48. Secretary General of the Council of Europe, State of Democracy, Human Rights and Rule of Law in Europe, May 2014 (p. 66):
http://hub.coe.int/c/document_library/get_file?uuid=5df90407-7663-4361-b5fb-1bbcc84c9fa0&groupId=10227.

48. The development of EU legislation and its application should be observed more closely by Council of Europe bodies wherever this may have an effect on the right to collective bargaining and the right to strike. For example, the Commission's "Monti II Regulation" for regulating the right to collective action in relation to the freedom of establishment was ended after a subsidiarity complaint by twelve national parliaments broadly based on the argument that the regulation would challenge national constitutional law, especially with regard to the right to strike. Another example is the state of emergency in respect to the solidarity clause of Article 222 of the TFEU, if applied to strikes. Also, the postponed Port Package III and the Revised Railway Package include regulations with possible effects on the right to strike. Last but not least, possible effects of the "Transatlantic Trade and Investment Partnership" on the protection of collective rights should be closely monitored. Member States should strive to ensure that the European Union promotes the right to strike and sets limits to its restrictions in accordance with judgments of the European Court of Human Rights.

4.2. European Union crisis management and national and international obligations

49. Against the background of the first facts presented above, it becomes evident that responses given to the current economic situation at the European level are often contradictory and that some of the decision-makers are lacking democratic legitimacy. Whilst the Troika does not have any legal standing, the European Commission and European Central Bank are still bound by treaties protecting fundamental rights (Articles 51 of the Charter of Fundamental Rights and Article 13 TEU), as well as by the obligation to promote the role of social partners and to facilitate social dialogue and the autonomy of social partners (in particular by Article 152 TFEU).[49] While the trend of undermining the right to collective bargaining seems to be universal in all member States, there are specific contexts to be taken into account for different countries. The IMF, for example, just like the EU-Troika, has regularly demanded labour market reforms in its memoranda with States requesting financial assistance. Even though the European Union has no competence in wage-setting and collective bargaining policies, there is a paradigm shift from *de jure* support for (or at least acceptance of) free collective bargaining in particular by Article 28 of the Charter of Fundamental Rights at EU level and Article 153.5 of the TFEU for the national level to direct political intervention in national collective bargaining.[50]

50. With the new "six-pack regulations" of the European Union,[51] the Commission obtained new means of exerting pressure on Eurozone member States. The European Fiscal Compact took this approach even further, as the competences of EU policymakers were strengthened by obliging countries in "excessive deficit procedure" to submit their economic and structural reform programmes, potentially covering the area of wages and collective bargaining, for control and endorsement.[52] The proposed Convergence and Competitiveness Instrument for the European Union, formerly known as the Competitiveness Pact, could intensify this trend: ETUC has condemned the Pact as an "attack on collective bargaining" leading Europe to a "dead end".[53]

51. In addition to posing a threat to the effective exercise of the right to collective bargaining, these forms of governance lack democratic legitimacy. This is, for example, illustrated by the view presented by the Directorate General for Economic and Financial Affairs of the European Commission, which has gained increasing influence in recent years. Its report on "Labour Market Developments in Europe 2012" contains a sub-section on the "wage bargaining framework" that calls on those responsible: to decrease statutory and contractual minimum wages; decrease the bargaining coverage; decrease (automatic) extension of collective agreements; reform the bargaining system in a less centralised way, for instance by removing or limiting the "favourability principle"; introduce/extend the possibility to derogate from higher level agreements or to negotiate firm-level agreements; and promote measures which "result in an overall reduction in the wage-setting power of trade unions".[54]

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49. These and the following elements of evaluation are, once again, based on information provided by Ms Veronica Nilsson, Confederal Secretary of ETUC at the exchange of views with the committee on 24 June 2014, see footnote 20 above.

50. European Trade Union Institute, Benchmarking Working Europe 2013 (p. 43, Figure 3.2), www.etui.org/content/download/8852/82473/file/13++Benchmarking+WEB+version+2013.pdf.

51. "On 13 December 2011, the reinforced Stability and Growth Pact (SGP) [entered] into force with a new set of rules for economic and fiscal surveillance. These new measures, the so-called 'Six-Pack', are made of five regulations and one directive proposed by the European Commission and approved by all 27 member States and the European Parliament last October. This change represents the most comprehensive reinforcement of economic governance in the EU and the euro area since the launch of the Economic Monetary Union almost 20 years ago", EU Press Releases Database, 12 December 2011, http://europa.eu/rapid/press-release_MEMO-11-898_en.htm?locale=FR; see also: www.citizensinformation.ie/en/government_in_ireland/european_government/fiscal_stability_treaty/stability_growth_pact_legislation.html.

52. European Trade Union Institute, Benchmarking Working Europe, 2013 (p. 43, Figure 3.2), op. cit.

53. *The Guardian*, "Workers' rights are under threat across the world", 4 April 2011, www.theguardian.com/commentisfree/2011/apr/04/workers-rights-collective-bargaining.

52. A line of discussion can therefore be observed in Europe which considers trade unions and collective bargaining processes as being amongst the obstacles to resolving the crisis situation. The case of Portugal has repeatedly evoked harsh criticism as the country's Constitutional Court defended the Constitution against the implementation of several measures envisaged in the context of adjustment programmes.[55]

5. Conclusions and recommendations: how to protect the right to bargain collectively

53. In the light of the threats and obstacles to some of the traditional industrial relations and the shortcomings of recent replies to the crisis as outlined above, I would notably like to underline the importance of protecting the right to bargain collectively, including the right to strike. In doing so, I wish to follow the line regularly taken by the American economist Paul Krugman when he says: "In principle, every … citizen has an equal say in our political process. In practice, of course, some of us are more equal than others. … Given this reality, it's important to have institutions that can act as counterweights to the power of big money. And unions are among the most important of these institutions".[56]

54. In order to preserve the European Social Model and its fundamental components, including social dialogue and the right to bargain collectively and to strike, current economic policies should change their focus from austerity to investment. Social dialogue and collective bargaining, already largely dismantled or undermined across Europe in recent years, should be restored. "Social partners" should be considered as what they are: "partners" in achieving economic performance and equal distribution of wealth and sometimes as opponents fighting over the distribution of power and scarce resources. Modern economies striving for an equal distribution of wealth and opportunities should base their decisions on principles of good and democratic governance, be it in the public or the private sphere. Investing in social rights is an investment in the future.

55. EU bodies and member States should respect their obligations stemming from the Charter of Fundamental Rights and the EU treaties to protect the right to collective bargaining and the right to strike at least at the level of protection guaranteed by the European Convention on Human Rights. The European Union should finally overcome remaining obstacles in the accession to the Convention, thereby guaranteeing an individual legal protection against EU measures. All Council of Europe member States should fully ratify the European Social Charter (revised), if they have not yet done so, and continue to implement – in a more efficient manner – the relevant provisions contained in the Convention (Article 11) and the European Social Charter (revised) (Articles 5 and 6). They should also give full support to the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints to provide trade unions with an instrument to submit complaints in cases of non-respect of the European Social Charter.

56. As regards further measures, major stakeholders in this debate have recently made substantial recommendations. For example, the European Trade Union Confederation presented its plan for investment for Europe in November 2013 as an alternative to the austerity policies, proposing amongst others:

– an additional investment of 2% of EU Gross Domestic Product (GDP) per year for a 10-year-period;

– greater co-operation between member States and democratic control over strategic policy orientation;

– the involvement of social partners in strengthening social dialogue;

– collective bargaining and workers' participation, particularly in relation to economic governance processes at national and EU level and labour market reforms;

– the promotion, respect and enlargement of European social standards.[57]

57. The new President of the European Commission has committed to an investment programme worth € 300 billion within the first year of his term, but it remains unclear what mixture of public and private investment is envisaged. However, the IMF believes that the European Union needs to invest more as the

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54. European Commission, Labour Market Developments in Europe 2012, September 2012 (pp. 103-104), http://ec.europa.eu/economy_finance/publications/european_economy/2012/pdf/ee-2012-5_en.pdf.

55. *Jornal de Negócios*, "Portugal's highest court torpedoes reforms", 27 September 2013, www.eurotopics.net/en/home/presseschau/archiv/article/ARTICLE130904-Portugal-s-highest-court-torpedoes-reforms.

56. Paul Krugman, "Wisconsin Power Play", *New York Times*, the Opinion Pages, 20 February 2011, www.nytimes.com/2011/02/21/opinion/21krugman.html?_r=0.

57. European Trade Union Confederation (ETUC): A new path for Europe – ETUC plan for investment, sustainable growth and quality jobs, 2013, p. 2, 3, www.etuc.org/sites/www.etuc.org/files/EN-A-new-path-for-europe_3.pdf, c.f. DGB Confederation of German Trade Unions, A Marshall Plan for Europe, 2012, www.dgb.de/repository/storage/d9715298-5590-11e2-8328-00188b4dc422/file/A-Marshall-Plan-for-Europe.pdf.

Eurozone is in danger of secular stagnation.[58] In my view, European governments should not only start investing to kick-start the economy, but should also strengthen the consultation of workers' organisations and refrain from promoting structural reforms which lower the wage-setting powers of collective labour organisations and which negatively affect working conditions as a reaction to high unemployment.

58. http://eurobserver.com/news/125959; see http://blog-imfdirect.imf.org/2014/09/30/now-is-a-good-time-to-invest-in-infrastructure/.