

ETUC reply to the public consultation: "Towards a new European Neighbourhood Policy"

European Trade Union Confederation
Boulevard du Roi Albert II, 5
1210 Brussels
Belgium
dbasso@etuc.org
0032 2 224 04 16
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Towards a new European Neighbourhood Policy
Key elements for consultation input of European Trade Union Movement

The European Trade Union Confederation (ETUC) welcomes the 2015 revision of the European Neighbourhood policy and the opportunity to put forward its proposals. These proposals are based on dialogue and input from our trade union partners in the EU's neighbouring countries. This is a necessary and timely exercise to refocus the policy and clearly prioritise labour market development, efficient social dimension and social dialogue as integral parts of the democratic policy process, as pillar of good governance and a base for sustainable future of the countries while approximating EU values, standards and practices.

The ETUC upholds structured partner relations with independent, democratic, representative and active trade unions committed to transformation in their societies towards more democracy and social justice, within the worldwide union network of the International Trade Union Confederation (ITUC), represented in the Southern Mediterranean by the Arab Trade Union Confederation (ATUC) and its affiliated unions and represented the Eastern Partnership countries by PERC (Pan European Regional Council)

The review of the European Neighbourhood Policy provides the ETUC with the occasion to reiterate its plea for a new relationship based not only on profit but on cooperation and partnership, and in line with TEU Art.21. We look forward to being further involved in the process.

The ETUC strongly advocates for an improved social dimension of the ENP. We would also plead for greater coherence between the EEAS and Commission DGs, particularly Employment and Social Affairs, Development and Trade. We believe that EU embassies in key capitals should include labour reporting officers with close relations with the social partners in those countries and with enhanced contacts with the European Social Partners including, of course, the ETUC.

We would encourage the EU to work closely with the International Labour Organisation (ILO) in the promotion of high labour standards.

The ETUC had placed great hopes in the “Arab Spring”. However, conflicts and civil repression in North Africa and the Middle East (with the notable exception of Tunisia) have been ongoing and even worsening, as a consequence both of enduring state fragility and of the absence of meaningful transformation following the popular uprisings that have swept through EU’s neighbourhood.

The new ENP should stress the centrality of stability leading to peace and human security. Thus the ENP approach should be tackling the causes of these conflicts including the weak state and public institutions, the lack of democracy and freedom, the violation of human rights, social injustice and inequalities.

EU should support those actors committed to transforming their societies to more sustainable and inclusive policies.

As a basic transversal working principle for the ENP the ETUC proposes to

1. Strengthening mutual accountability and promoting policy coherence for development through enhanced transparency and inclusive social dialogue. This entails:
 - a) Ensuring transparency in policy formulation and engage all relevant stakeholders including civil society, trade unions and media in different policy processes, in particular on trade, investment and migration policies.
 - b) While emphasis on mutual accountability is important, it should not underestimate national / democratic accountability. EU should foster this, particularly through promoting national social dialogue. EU should promote development oriented and trade and investment policies, through protecting the policy space of developing countries and ensuring the integration of human rights and development considerations in decision making, policy formulation, design and implementation of these policies
 - c) Establishing a clear and effective mechanism to ensure transparency and disclosure during the implementation of ENP and in particular in the course of negotiations on Deep and Comprehensive Free Trade Agreements (DCFTAs), given that negotiations address areas that are at the heart of the structure of national economic sectors (such as investment, government procurement and services) and may directly affect the states’ ability and sovereignty in terms of regulating the economy in line with national development goals
2. Second basic principle for a revised ENP are revised trade and investment policies that support local productive capacities and promote decent work and social protection.

Trade liberalization policies must enhance and support productive capacities with a focus on the domestic and regional markets and should be anchored on the basis of creating decent work, social protection and foster inclusive development.

As far as DCFTAs are concerned, currently being negotiated with Morocco, Tunisia and in coming years Jordan and Egypt, our position is that these trade agreements must include a strong and enforceable labour chapter to ensure workers’ and trade union rights. A recent study by the ILO research Institute¹ clearly showed up that enforceable social clauses in free trade agreements

¹International Institute for Social Studies, ILO, The social dimension of Free Trade Agreements, Geneva, 2013.



have demonstrable positive effects on the respect of labour standards, with changes in labour law to be in accordance with ILS (ante hoc) and by monitoring processes set up under the terms of the agreements of respect of ILS (post hoc). Ex-ante and ex-post impact assessments of policies on decent work and social protection need to be undertaken and trade, investment, and energy policies should be designed, implemented and revised based on the outcome of these assessments. Impact assessment studies of EU free trade policies in Morocco and in Tunisia undertaken in 2007, demonstrated the possible adverse effects on employment and on weak domestic industries. DCFTA's must then be accompanied by flanking measures for the domestic industries and in terms of development programs, if DCFTA's will lead to increased unemployment, as well as significant loss of government revenues. Exports may increase for our EU neighbours with the adoption of DCFTA's but measures for protection of infant industries need to be integrated.

Public services and sectors of basic services related to economic and social rights in particular, including sectors relating to the right to healthcare and education, basic mobility and water and energy supply must be excluded from the DFCTA. Investment protection clauses must be absent, in particular Investor-to-State Dispute Settlement mechanisms.

The EU can enhance respect for human rights standards of both domestic and foreign private sector enterprises, and ensuring compliance with social and environmental standards according to the UN Guidelines on Business and human rights by adopting and applying conditionality social clauses for enterprises applying for access to EU or European Investment Bank grants or loans or contracts under development programs.

3. Promoting freedom of association in EU neighbouring countries

These past few years countries in our neighbourhood are witnessing shrinking space for civil society, violations of freedom of association and expression and restrictions on the right to access to information.

The ATUC (2014) notes that although most Arab countries have recognized the principle of the freedom of association both in their constitution and their laws, some still disregard the principle completely in practice. Most Arab governments create obstacles that are contrary to the principle of the independence of trade unions from the public authorities. In some countries the law does not include the right to join trade unions for broad sections of the workforce, especially public servants and foreign workers. In most Arab countries there is no explicit right in law to collective bargaining; the regulator has been more interested in regulating labour relations through laws and their executive orders; the role of collective bargaining thus remains very limited. In very few countries there are institutionalized platforms for social dialogue whether at enterprise, sector wide or national level.

The ENP, whether in the framework of trade and investment policies, sustainable development programs or in political dialogue can actively promote freedom of association and an enabling environment for social partners. This could be translated into work with national, regional and local authorities to design effective strategies guaranteeing decent working conditions, social security as well as accessible and quality education and lifelong learning for all.

In particular, the ENP can focus on the promotion of the organization of vulnerable workers, in atypical or even informal employment, women and young workers so as to promote their access to decent work and social protection.

The dramatic situation of working people in Palestine is of special concern to us and, while we acknowledge the EU's efforts in the region, we urge for particular attention to be given to assisting the Palestinian General Federation of Trade Unions in its work.

3. Promoting social justice in the region through contributing to the progressive realization of economic, social and cultural rights

In the wake of the popular uprisings of 2011, the ILO analysed the socio-economic situation in North Africa and proposed a strategy for Employment for Stabilized and Socio-economic progress.²

The strategy identifies 1) low employment to population ratio's and high unemployment of youngsters 2) insufficient number of high quality jobs 3) high share of public sector employment and lack of dynamics and contributions of the private sector and limited growth in productivity 4) weaknesses in social dialogue (see supra) 5) limited social protection 6) limited labour protection and protection of viable wages and salaries 7) limited respect and application of International labour standards 8) poor educational standards and output especially for vocational training

In response to these challenges the ILO proposes a program of 1) creating employment opportunities for young women and men and the most vulnerable 2) empowering social partners and other stakeholders through social dialogue 3) extending and improving social protection and labour protection especially for the most vulnerable.

The ENP can with its trade and investment policies, development programs and political dialogue extend its support to this ILO program.

Governments in North Africa and the Middle East are reducing or altogether annulling the existing food and energy subsidies, that can make up to 30% of the state budget under pressure by the IMF and the World Bank, to access loans and grants as part of their conditionality policy. These subsidies were an important and integral part of the workers' income and their removal is an important risk for impoverishment and for an even greater deterioration of social rights.

It is therefore more than ever necessary to invest in improved social protection and working and salary conditions, with emphasis on viable minimum wages, through the social dialogue between social partners, as an alternative for these food and energy subsidies.

Social security's policies in most Southern Neighbourhood countries exclude many workers in the informal sector such as temporary workers, agricultural workers and domestic or migrant workers coverage. Few formal social security mechanisms exist to cover the risk of unemployment, while social assistance plans and other formal social safety nets tend to be fragmented and weakly coordinated; the coverage of unemployment compensation in the region remains the lowest in the world. Throughout the region the focus is not on rights based approaches to social protection but only on the economic function of social protection, therefore focusing on short-term targeted social assistance programs such as social safety nets.

The universal right to access to social protection can be promoted, focusing on the social protection minimum floor and universal and comprehensive social protection, with access for the vulnerable and in particular extension of social security to workers in informal sector and migrant workers.

² ILO Sub regional Strategy for North Africa: Employment for Stability and Socio-economic Progress, ILO, 2011

4. Financing a better social and labour protection, will need better and more efficient taxation and especially the implementation of progressive taxation policies in order to address inequalities while generating revenue in an equitable way, eliminating the many tax exemptions of many privileged groups, and putting greater emphasis on the fight against corruption, tax havens and illicit financial flows, ensuring the European businesses and private companies' regular reporting on tax payments, along with their impacts on sustainable development and human rights.

Promoting progressive taxation policies is therefore a corner stone for a revised ENP.

5. A rights based approach to mobility and migration. The Council conclusions on migration in EU development cooperation of 12 December 2014, highlighted the importance of the nexus between migration and development as one of the thematic priorities of the EU global approach to migration and mobility, which provides the overarching framework for the EU external migration policy. Important ingredients are the promotion of decent working and social conditions for all migrants that conform to international labour standards, extending social protection for migrant women, men and children in countries of origin and destination as well as facilitating safe, orderly and regular migration, through enhanced international cooperation. For migrants arriving to the European Union, equal access to public and social services ought to be promoted especially with regards to health, education and housing services for all, in accordance with the Charter for Fundamental rights of the European Union.

THE EU AND EASTERN PARTNERSHIP

The ETUC and PERC fully support the main assumption of the ENP, underlined in the Joint Declaration of the Eastern Partnership Summit (Riga, 21-22 May 2015) that the “Eastern Partnership is founded on shared ownership, responsibility, differentiation and mutual accountability. They underline the importance of the engagement of all society in turning this shared vision into reality.” To these ends the potential of the policy to differentiate the various roles of different actors and secure that each one engages in what they can do best in cooperation with other interested parties will be key to the success of the policy.

General observations

1. The Eastern Partnership (EaP) has underestimated the importance of labour and social policies based on the “decent work” agenda and efficient social dialogue both for stabilizing the achievements of political and economic transformation as well as for building of a culture of open political exchange, dialogue and consensus based, negotiated solutions. The impotence of the EaP Civil Society Forum to make a meaningful contribution in these areas and the resulting tensions with the social partners on national and EU level is indicative of the shortcomings of the current approach.
2. The potential of the EaP in the areas of labour and social policy has been further eroded by the persistent ambiguity surrounding the EU concepts and practice of “civil” and “social” dialogue. The fall out of these developments is currently leading to delays and complications

in setting up of the civil society structures envisaged in the AA and DCFTA agreements in the three signatory countries. These hardly strengthen the incentives for the interested parties in the other countries and the “neighbours of neighbours” to look towards EU for inspiration.

3. The emergence of the Eurasian Economic Union (EEU) can be expected to have increasing influence on the architecture and policies of trade unions. The EEU is inheriting some all-USSR structures where most affiliates of PERC in the region are also involved in these structures (employer organisations probably face similar challenges). As countries follow different trajectories inside and between these regional developments, trade unions similarly face specific pressures in their own context but still promoting common interests of working people and relying on the ILO and European principles and standards in the search for efficient solutions. EU policies will need the potential to capture the specific factors in context while responding to common issues of multilateral interest, e.g. the legal base of labour relations, social dialogue systems, public services, OSH policy on prevention, labour inspection, migration challenges, coping with informal economy, etc.

Recommendations:

1. The orientation towards a more differentiated approach is a step in the right direction provided it will prevent unreasonable marginalisation of any partner. The AA/DCFTA agreements with their annexes, particularly in the employment and social policy area provide a useful frame for future action that will need open political support from EU and sufficiently resourced initiatives for further development of the system and building a culture of social dialogue. Such an approach, based on the “decent work” agenda can be applied to all countries in the region and beyond. It will need to be an integral part of the policy, securing a possible multilateral/regional activities backed by an option to upgrade to specific EU standards whenever the relevant partners see it useful and preferable. The NIS regional tripartite conference on OSH policy in 2013 organised jointly by PERC and the International Organisation of Employers (IOE) with support from the Technical Assistance and Information Exchange instrument of the European Commission (TAIEX) was a successful test of the potential of such initiatives.
2. The confusion concerning “civil” – “social” dialogue needs urgent clarification, as well as the primary role of social dialogue and social partners in developing, deciding on and implementing labour and social policy. It is particularly pressing to delineate the respective competencies of the AA/DCFTA related structures: the national platforms and the domestic advisory groups from national bipartite and tripartite social dialogue as the main channel for implementation of the respective parts of the agreements. Tensions along these lines have already flared up and complicated the setting up of the structures. The ETUC and PERC jointly with IOE and the European Economic and Social Committee have already approached the EC in previous years in view of resolving the issues and avoiding unnecessary tensions.
3. EU would need to strengthen the coherence of the involvement of different EC structures, their initiatives in the region and more particularly provide for more space and involvement of DG EMPL. EU Delegations on the ground can play an important facilitating role provided they have the necessary expertise and resources to actively support implementation of the

agreements or other initiatives. We would encourage EU Delegations in neighbouring countries to include officials in charge of labour and social affairs, who could be a contact reference for the trade unions on the ground and for the unions in the EU.

4. Coherence of policy advice among the EU, International financial institutions, ILO, on economic, financial, industrial policy on one side with labour and social policy reforms on the other. The Eastern Neighbourhood countries are too often characterised by low trust societies with sharp inequalities and high poverty levels and intimidated by deficit of rule of law and serious governance/corruption issues. Maintaining acceptable levels of living standards backed by decent income and efficient public services accessible for all at affordable prices is the only way to secure space and time for reforms to take root and bear fruit in a sustainable perspective.
5. The ENP should promote and facilitate as much as possible full ratification of the European Social Charter (R) and encourage joining the collective complaints procedure. ESC (R) and CoE initiatives can further leverage the effect of ENP in stabilising democracy, developing good governance and safeguarding human and labour rights.
6. Building social capital and the culture of social dialogue. ENP should provide support for development of training capacities of social partners, the relevant state authorities as well as independent professional local think-tanks, capable to follow and analyse the situation in the country and make recommendations for further action. Introducing relevant education programmes and encouraging exchange with EU universities to these ends can be good sources of expertise to prepare the human resources needed for the future. This is also a way to engage interested young professionals – a key source of positive dynamics for change, strengthening democracy and social cohesion.
7. The EU holds regular bilateral dialogues with most ENP partner countries in different formats. This includes formal exchanges foreseen in the AAs or PCAs (Association/Cooperation Councils, Association/Cooperation Committees, sectoral subcommittees). There are also numerous other interfaces, such as Human Rights Dialogues and other sector-specific dialogues. Unions should be better involved in these networks.

While we consider that these values should be promoted in all EU external relations and cooperation processes, including ENP, it is important to promote full, without any exceptions, accession of the Eastern European countries to the European social charter (revised), including collective complaint procedure. The membership of most of the Eastern European countries in the Council of Europe and participation in its institutions differ this region from the Southern neighbourhood that should be emphasized in the policy documents.

The Memorandum of understanding of social issues in the context of the energy community is not taken into account, and the social component is not present in EU energy strategy. The EU dialogue in the energy sector should be reinforced by the social dialogue as it is the Energy community itself.

The ENP policies are implemented via the European Neighbourhood and Partnership Instrument that foresees support to the states (and civil society) to achieve improvements in certain defined priority areas. The Eastern Partnership is more ambitious as it seeks closer ties with the European Union. In that sense, while EaP processes are of political nature, ENP focus is on promoting prosperity, rule of law, justice. Public administration reform, education or social inclusion is of

development and cooperation nature. These processes should therefore also be aligned with the Post 2015 Sustainable development goals.

Regrettably, from a trade union point of view, deficit of decent work in the Eastern Neighbourhood, poverty, growing inequalities and violations of human rights of workers and importance of social dialogue was not sufficiently present in the first decade of ENP priorities. Meanwhile, for most of the EaP countries, precarious or informal work is increasingly the norm; inequalities threaten the stability of societies; human and trade union rights are being violated; public services continue to be stripped away.

All workers should have access to a decent life and decent work in safe and healthy environments, while securing the needs and ensuring opportunity for future generations. Inability of states to ensure that leads to social tensions and political instability. Following the turbulent movements – born from deficits of decent work, inequality and corruption - in the Arab world, these issues were partly addressed in the South ENP development and cooperation portfolio, yet not in the Eastern countries. The example of the Tunisian transformation shows that it can be a success if social partners are duly involved in policy development and state rebuilding. This gap has to be corrected in the next cycle for East ENP also.

The Decent work agenda, with its four pillars of workers' rights, social protection, employment and social dialogue is a tool to fight both poverty and inequality. There should be clear reference to the DWA and international labour standards in the ENP.

There is a need to promote strong and functioning labour market policies and institutions. Specifically, appropriately designed wage and income policies, collective bargaining, labour inspection, health and safety preventive mechanisms, strong employment services, targeted measures to increase labour market participation of women, youth and under-represented groups. These issues will be easier to address in cooperation with countries that signed AAs, but they are of equal importance for the rest and hence need even more specific attention in the ENP bilateral processes.

Monitoring of the progress shall be based on clear principles, such as mutual accountability, democratic ownership and social dialogue. Civil society participation at national level to define national indicators must be ensured. The success of an accountability mechanism will depend on the capacity of the process, at all levels, to convene different actors, on equal ground to contribute in a genuine and fully participatory manner to the review and implementation. It is important to explicitly recognize the role of the social partners and the social dialogue. The setting up priorities and progress of the cooperation should be discussed with social partners on regular basis. The social dialogue is an excellent example of how to ensure ownership of policy processes at the national level and should inform and actually set an example of how the review processes are carried out. At national level the presence of social dialogue is critical for ensuring social cohesion, social peace through greater accountability. There are fundamental requirements or prerequisites that need to be in place for the social dialogue to function effectively, including respect for freedom of association and collective bargaining, independent unions and employers' organisations and the institutional capacity of governments to support such a process.

The state has the ultimate responsibility in delivering on development commitments, which include compliance by all actors, notable the private sector, with commitments and standards already agreed by the international community. The state is also responsible for ensuring fair redistribution and social inclusion. The private sector is not a viable alternative to the state to provide quality public services. This agenda should not be a vehicle for privatization.



Particular attention should be put on cross-border migration processes, prevention of trafficking and abuses, this work should involve partners from other neighbouring countries.

Cooperation in the fields of education and culture is important. Countries, in general, inherited high level of education, but in poorer countries it deteriorated. Regional cooperation should continue. Despite tense relations between certain countries, the people feel much in common and are positive about cooperation and joint initiatives. This also applies to cooperation with “neighbours of neighbours”.