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2013/0361 (APP)

Proposal for a

COUNCIL DECISION

on a Tripartite Social Summit for Growth and Employment

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

BACKGROUND

The Tripartite Social Summit for Growth and Employment (TSS) was set up by Council Decision of 6 March 2003 (2003/174/EC), which formalised the practice of holding high-level, informal meetings since 1997 in the framework of the European Employment Strategy, and subsequently the Lisbon Strategy. The Commission proposed the 2003 Decision in order to institutionalise the practice of high-level consultation between the EU institutions and the EU social partners. The proposal meant abolishing the former Standing Committee on Employment, which was set up in 1970 and reformed in 1999, but which proved too heavy to be an appropriate forum for EU consultation with social partners — in particular in view of enlargement and at that time the prospect of an EU 27 format. It was also too narrow in scope to enable the social partners to be involved in the EU employment strategy and the EU integrated economic and social strategy resulting from the Amsterdam Treaty and the 2000 Lisbon European Council.

Since 2003, the TSS has been a separate event from the European Council meetings and has broadly fulfilled its aim of facilitating the exchange of views at the highest level between the Commission, the EU Presidency and the EU social partners on employment and social aspects of the Lisbon Strategy (since 2010, and then of the Europe 2020 Strategy). Until the Lisbon Treaty entered into force, the meetings were co-chaired by the Council Presidency and the President of the Commission. The 2003 Decision also gave a role to the two subsequent Presidencies.

In its Communication (COM(2013)690) of 2 October 2013 on the social dimension of the EMU, the Commission announced that it will present a proposal to revise the 2003 Council Decision.

WHY DOES THE DECISION NEED TO BE REVISED?

The Lisbon Treaty brought in significant institutional changes, which justify revising the 2003 Council Decision:

- It institutionalised the European Council and created the role of President of the European Council (Article 15 TEU);
- It recognised the role of the TSS as part of the EU social dialogue (Article 152 TFEU);
- It repealed Article 202 ECT, which was the legal basis used to adopt the 2003 Decision (the functions of the Council are now laid out in Article 16 TEU and the principles for comitology are in Articles 290 and 291 TFEU).

Following the institutional change brought in by the Lisbon Treaty to create the function of President of the European Council, the 2003 Council Decision establishing the Tripartite Social Summit needs to be revised. To maintain the logic of the Treaty and of the TSS institutional setting, the role and responsibilities that the 2003 Council Decision attributed to the rotating Presidency of the Council should be transferred to the newly created function of President of the European Council.

In addition, the overall policy framework needs to be revised, replacing the Lisbon Strategy with the Europe 2020 Strategy and specifying how the TSS for Growth and Employment contributes to the overall governance.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

A formal consultation of the social partners is not required, given the legal basis chosen (see below), but the EU cross-industry social partners were informally consulted on the main thrust of this revision. There was broad support for the idea of a limited/technical revision to make the technical changes needed as a result of the institutional changes brought in by the Treaty of Lisbon.

3. LEGAL ELEMENTS OF THE PROPOSAL

LEGAL BASIS

The legal basis for adoption of the Council Decision should be Article 352 TFEU.

INTER-INSTITUTIONAL ASPECTS OF THE REVISION

A specific aspect of the revision concerns the representation of the Council. Under the current format of TSS meetings, the Council Presidency and the two subsequent presidencies participate.

Specifically, the current practice in force since 2010 involves the following arrangements:

- the official invitations are signed by the President of the European Council, the President of the Commission and the Head of State or Government of the Member State holding the Presidency of the EU;
- the meeting is co-chaired by the President of the Commission and the President of the European Council, who open it and present the conclusions respectively. The Head of State or Government of the Member State holding the Presidency takes the floor once during the meeting;
- the Council Presidency and the two subsequent presidencies participate at the level of Heads of State or Government and of ministers for employment.

One could argue, in the light of a legally strict interpretation of Article 15 TEU, that continuity of the Council participation could be provided by the participation of the President of the European Council only. Hence there is no longer a need for the three successive presidencies to participate.

But given the positive experience with this format followed since 2010, and the consensus developed around it, the Commission favours a pragmatic solution, building on existing practice. This means that the participation of the three successive presidencies, at the level of Heads of State or Government and at the level of ministers for employment, is still justified on the grounds of continuity of the Council's tasks under the responsibility of the rotating presidencies.

FREQUENCY

The current Council Decision provides that the TSS should meet at least once a year before the spring European Council. In practice, the TSS has met twice a year, with the interactive involvement of the rotating presidencies since 2003, before the spring and the autumn meetings of the European Council.

The Commission considers that, once again, experience with current practice has been positive and that the need for an efficient and visible high-level concertation between the EU institutions and the EU social partners justifies holding two meetings of the TSS every year. The revision confirms the practice of TSS meetings ahead of the spring and autumn meetings of the European Council.

4. BUDGETARY IMPLICATION

N/A

5. OPTIONAL ELEMENTS

ARGUMENTS IN FAVOUR OF A LIMITED/LIGHT REVISION

The Commission does not intend at this stage to use the opportunity of this revision to carry out a profound review of the functioning of the Tripartite Social Summit. The Summit has always been considered by the social partners as a privileged forum to discuss social and employment issues at the highest level, ahead of the Spring and Autumn European Council, in the presence of Heads of State or Government and ministers of employment and social affairs of the rotating presidencies. It also provides an opportunity for the representatives of EU institutions attending the TSS to hear the views and proposals from both sides of the social dialogue spectrum, enabling them to pass on these views subsequently to European Council members.

The Commission favours a proposal that adapts the current Decision to the institutional changes brought in by the Treaty of Lisbon, while reflecting the positive results of recent practical experience with the TSS. A few editing adjustments are also introduced to improve the technical quality of the text. This will ensure a swift revision process.

Proposal for a

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the functioning of the European Union, and in particular Article 352,

Having regard to the proposal from the Commission,

Having regard to the consent of the European Parliament¹,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Article 3 TEU provides that one of the objectives of the European Union is to develop a highly competitive social market economy, aiming at full employment and social progress
- (2) In defining and implementing its policies and activities, the Union must take into account their social dimension, specifically the requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health, in line with Article 9 TFEU.
- (3) The Union recognises and promotes the role of the social partners at its level and facilitates dialogue between them while respecting their autonomy, in line with Article 152 TFEU.
- (4) To promote a high-level concertation with EU social partners on the overall strategy set up by the Lisbon European Council of 23 and 24 March 2000, the Union has established a Tripartite Social Summit for Growth and Employment, which is now recognised in Article 152 TFEU as an integral component of social dialogue at EU level.
- (5) The Union and the Member States are committed to cooperate within the framework of an integrated strategy designed to boost the EU's potential for growth and jobs over the decade 2010-2020, the Europe 2020 Strategy. It aims at increased coordination between national and European policies.
- (6) The Union has recognised the need to enhance the social partners' ownership and involvement in the Europe 2020 Strategy to enable the social partners to actively contribute to implementation of the strategy objectives.
- (7) Regulation 1175/2011 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies underlines that social

¹ OJ C , , p . .

partners shall be involved within the framework of the European Semester, on the main policy issues where appropriate, in accordance with the provisions of the TFUE and national legal and political arrangements.

- (8) In its conclusions of 28 June 2013, the European Council noted that the social dimension of the EMU should be strengthened and highlighted in this context the key role of the social partners and social dialogue. Accordingly, the Commission in its Communication (COM(2013)690) of 2 October 2013 on the social dimension of the EMU, addressed the issue of promoting social dialogue at national and EU levels and announced a proposal to revise the 2003 Council Decision.
- (9) Since it was set up by Council Decision in 2003, the Tripartite Social Summit has fulfilled its key role to enable high-level concertation. It has contributed positively to the development of social dialogue at EU level under the Lisbon Strategy over the decade 2000-2010 and under the current Europe 2020 Strategy.
- (10) The tasks and the membership of the Tripartite Social Summit should be adapted in order to take into account the institutional changes brought in by the Treaty of Lisbon, notably the creation of the function of President of the European Council, as laid down in Article 15 TEU.
- (11) This Decision is without prejudice to the organisation and operation of the national systems of industrial relations and social dialogue.

HAS ADOPTED THIS DECISION:

Article 1

Task

The task of the Tripartite Summit for Growth and Employment shall be to ensure, in compliance with the Treaty and with due regard for the powers of the institutions and bodies of the Union, that there is a continuous concertation between the Council, the Commission and the social partners. It will enable the social partners at European level to contribute, in the context of their social dialogue, to the various components of the Union's strategy for growth and jobs. For that purpose, it shall draw on the upstream work of and discussions between the Council, the Commission and the social partners in the different concertation forums on economic, social and employment matters.

Article 2

Membership

1. The Summit shall consist of the President of the European Council, the Council Presidency and the two subsequent presidencies, the Commission and the social partners, represented at the highest level. The ministers from those three presidencies and the Commissioner responsible for employment and social affairs shall also be present. Depending on the agenda, other ministers from these three presidencies and other Commissioners may also be invited to take part.
2. The social partners' representatives shall be divided into two delegations of equal size comprising 10 workers' representatives and 10 employers' representatives, taking into account the need to ensure a balanced participation between men and women.
3. Each delegation shall consist of representatives of European cross-industry organisations, either representing general interests or more specific interests of

supervisory and managerial staff and small and medium-sized businesses at European level.

Technical coordination shall be provided for the workers' delegation by the European Trade Union Confederation (ETUC) and for the employers' delegation by the Confederation of European Business (BUSINESSEUROPE). The ETUC and BUSINESSEUROPE shall ensure that the views expressed by the specific and sectoral organisations are fully taken into account in their contributions and shall, where appropriate, include representatives from some of those organisations in their delegations.

Article 3
Preparation

1. The agenda for the Summit shall be determined jointly by the Council, the Commission and the workers' and employers' cross-industry organisations taking part in the work of the Summit. To this end, preparatory meetings take place between the services of the Council, the Commission and with ETUC and BUSINESSEUROPE.
2. The matters on the agenda shall be discussed by the Council meeting in its Employment, Social Policy, Health and Consumer Affairs configuration.
3. The Commission shall provide the Summit secretariat. In particular, the secretariat shall ensure that documents are distributed in adequate time. For the purposes of preparing and organising meetings, the Summit secretariat shall establish appropriate contacts with the ETUC and BUSINESSEUROPE, which shall be responsible for coordinating their respective delegations.

Article 4
Operation

1. The Summit shall meet at least twice a year. The meetings shall be held before the respective spring and autumn sessions of the European Council.
2. The Summit shall be chaired jointly by the President of the European Council and the President of the Commission.
3. The meetings of the Summit shall be convened by the joint chairmen on their own initiative, in consultation with the social partners.

Article 5
Information

The joint chairmen shall draw up a summary of the Summit's discussions in order to inform the relevant Council configurations and the general public.

Article 6
Repeal

Decision 2003/174/EC is hereby repealed from the date of the entry into force of the new Decision.

Article 7

Entry into force

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President