



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION
Jobs, Skills and Social Policies

Deputy Director-General

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EMPL.C.3/JH/AH/(2022)

Mrs. Susan Flocken
European Director
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Subject: RE: Request for a Meeting with the European Trade Union Committee

Dear Mrs. Flocken,

Thank you for your letter 9 September alerting us to the situation of possible violations of social dialogue and workers' rights, not least in the current context of the multiple crises circumstances which has undoubtedly serious negative consequences on working conditions and sheds its negative light on quality education and lifelong learning.

You refer in your letter particularly to violations of social dialogue and worker's rights in Portugal, relating to the Fixed-term Work Directive 1999/70/EC and in Greece, relating to ILO Convention 87 on Freedom of Association and Protection of the Right to Organise and to ILO Convention 151 on Labour Relations (Public Service) concerning persons employed by public authorities.

In relation with the alleged infringement of Directive 1999/70/EC in Portugal, I would like to inform you that it is being already investigated by the Commission in the framework of an infringement procedure and that a reasoned opinion was sent to Portugal on 15 July 2022.

More generally, I would like to underline that the EU recognises and promotes the role of social partners at EU level, aiming to facilitate the dialogue between them while fully respecting their autonomy¹. The Charter of Fundamental Rights of the EU recognises the right of collective bargaining and action²; pursuant to its Article 51(1) this applies to Member States when they implement EU law. At the same time, the functioning of national social dialogue, including that of the collective bargaining framework, as mentioned in your letter regarding Greece, fall under the responsibility of each Member State. Moreover, the pay, the right of association and the right to strike or the right to

¹ Article 152 of the Treaty on the Functioning of the European Union

² Article 28 of the Charter Fundamental Rights of the European Union

impose lock-outs does not fall under EU competence³. It is therefore primarily for the competent national authorities, including courts, to ensure that employers and national authorities correctly apply the relevant national provisions.

The Commission attaches great importance to a well-functioning social dialogue. The EU Employment Guidelines⁴ call upon the Member States to foster social dialogue and collective bargaining and to encourage the social partners to negotiate and conclude collective agreements in matters relevant to them, fully respecting their autonomy and the right to collective action. In addition, the 2022 Annual Sustainable Growth Strategy underlined that the systematic involvement of social partners and other relevant stakeholders is key for the success of the economic and employment policy coordination and implementation.

The Commission continues to monitor the situation of social dialogue in the Member States within the European Semester. The 2022 Country Specific Recommendations for both Portugal and Greece⁵ note that the systematic involvement of social partners and other relevant stakeholders remains important for the successful implementation of the recovery and resilience plan, as well as other economic and employment policies going beyond the plan, to ensure broad ownership of the overall policy agenda.

Furthermore, the Commission plans to submit a proposal for a Council Recommendation on the role of social dialogue at national level, as part of its Social Dialogue initiative. This Recommendation would support the implementation of Principle 8 of the European Pillar of Social Rights “Social dialogue and involvement of workers” and will encourage Member States to take measures adapted to their national practices, in order to address the challenges of social dialogue along the three main areas of Principle 8, the involvement and consultation of social partners, the promotion of collective bargaining, aiming to encourage the social partners to conclude collective agreements and the enhancement of the capacity of the social partners at all levels.

Let me reassure you that the Commission values and appreciates your activity as a recognized EU level social partner and we thank you once again for contacting us with information about the seriousness of the situation.

I assure you that we will continue to pay due attention to the development of social dialogue and involvement of social partners, not only in light of the instruments described above. Should the development of the situation require it, we can discuss the possibility of meeting in the future.

Yours faithfully,

³ Article 153(5) TFEU

⁴ Guideline 7 of Council Decision 2021/1868/EU of 15 October 2021 on guidelines for the employment policies of the Member States

⁵ Council Recommendation of 12 July 2022 on the 2022 National Reform Programme of Portugal and delivering a Council opinion on the 2022 Stability Programme of Portugal and Council Recommendation of 12 July 2022 on the 2022 National Reform Programme of Greece and delivering a Council opinion on the 2022 Stability Programme of Greece

e-signed
Stefan OLSSON