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MOTION FOR A RESOLUTION

to wind up the debate on statements by the Council and Commission

pursuant to Rule 103(2) of the Rules of Procedure

by Francis Wurtz, Gabriele Zimmer, Dimitrios Papadimoulis, Eva-Britt Svensson, Roberto Musacchio, Umberto Guidoni, Ilda Figueiredo and Mary Lou McDonald

on behalf of the GUE/NGL Group

on the Social Package

European Parliament resolution on the Social Package

The European Parliament,

- having regard to the Commission Communication on the 'Renewed social agenda: Opportunities, access and solidarity in 21st century Europe' (COM (2008) 412 final) and the numerous non-legislative accompanying documents to that Communication,
 - having regard to the Commission's Proposal for a Directive of the European Parliament and of the Council on the application of patients' rights in cross-border healthcare (COM (2008) 414 final),
 - having regard to the Commission's Proposal for a European Parliament and Council Directive on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (recast) COM(2008) 419 final),
 - having regard to its resolution of 4 September 2001 on the application of the European Works Council Directive,
 - having regard to the Commission's Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008) 426 final),
 - having regard to the political agreement of the Employment and Social Affairs Council of 9 June 2008 on the revision of the Working Time Directive and on the Temporary Workers Directive,
 - having regard to the judgements of the Court of Justice of the European Communities on the cases Viking Line, Laval, Rüffert and Commission vs. Luxembourg and the controversial political debate thereon,
 - having regard to the following ILO conventions: ILO-94, Labour Clauses (Public Contracts); ILO-87, Freedom of Association and Protection of the Right to Organise; ILO-98, Right to organise and collective bargaining; ILO-117, Basic Aims and Standards of Social Policy, especially Part IV; ILO-154, Collective Bargaining, ILO-MLC Maritime Labour Convention, and the ILO's Decent Work Agenda,
 - having regard to the Integrated Guidelines on Growth and Jobs 2008 - 2010 and to the 'EU Strategy on Social Inclusion and Social Protection',
 - having regard to Rule 103(2) of its Rules of Procedure,
- A. whereas during the current term of the European Parliament, the Commission and the Council have so far been very reluctant to propose and adopt any social-policy legislation designed to bring about social progress in the European Union,

- B. whereas employment and social policies for social progress are not amongst the four official priorities of the current French Presidency of the European Union and whereas claims by that Presidency that it seeks to make 2008 'the year to restart Social Europe' therefore do not sound very credible,
- C. whereas the political agreement of the Employment and Social Affairs Council of 9 June 2008 on the revision of the Working Time Directive aims at further deregulation of the already weak minimum standards for protecting workers' health and safety against irregular and long working hours; whereas the current moves by the French Government to drop national legislation on the 35-hour working week and similar campaigns in other Member States for longer working hours display the same trend towards social regression,
- D. whereas the recent judgements of the European Court of Justice on the cases Viking Line, Laval, Rüffert and Luxembourg restricted the right to strike and to collective bargaining by claiming the supremacy of internal market freedoms over such fundamental social rights; whereas these judgements interpreted the minimum social protection standards contained in the Directive on the Posting of Workers as maximum standards, thus favouring downward wage competition at the same workplace and denying Member States the right to require more favourable working conditions and remuneration for posted workers under national legislation,
- E. whereas these developments strongly contributed to widespread public perceptions that the EU is leaning too far towards free markets and competition and is abandoning solidarity and social progress; whereas this deepening crisis of legitimacy of the European Union has led to a growing distance between a market-driven European project supported by its elites and the scepticism among large sections of the European population about the 'added value' of European policies for their daily lives and social wellbeing, as again recently expressed by the Irish 'No' to the Lisbon Treaty,
- F. whereas, against this background, the 'Renewed Social Agenda' presented by the Commission must be interpreted as an attempt to assuage the anger and dissatisfaction of large swathes of the population with the current neo-liberal trajectory of the European integration project; whereas, however, the so-called 'Social Package' mainly consists of non-legislative communications, reports and recommendations whose effect in terms of promoting measurable social progress throughout the European Union is doubtful,
- G. whereas due to monetary and macro-economic policies, namely the Stability Pact, the neo-liberal Lisbon Strategy and ECB decisions, there have been, since 2000, slow economic and employment growth, a decline in the value attached to work, persistently high unemployment levels, poverty, precarious work and inequalities in income distribution, accompanied on the other hand by increasing gains to big financial and economic groups which benefit from the liberalisation and privatisation of strategic productive sectors and fundamental public services,
1. Considers that the 'Social Package' is an ill-designed attempt to distract public attention from socially regressive policy stances of the Commission and the Council such as the planned deregulation of working time as governed by the Working Time Directive and the devastating effects of the recent judgements of the European Court of Justice on fundamental rights and collective bargaining;

2. Points out that the European Parliament called for a phasing-out of the opt-out in its first reading on the revision of the Working Time Directive; strongly criticises the fact that the Council's political agreement rejected that demand; therefore states its opposition to the Council agreement;
3. Insists that any socially meaningful revision of the Working Time Directive must focus on the reconciliation of work and non-work life by way of shorter maximum daily and weekly working hours; underlines that the opt-out must be completely abolished, that the ECJ's case law on time spent on call and compensatory rest periods must be fully implemented and integrated into the Directive and that any lowering of the level of protection granted by the existing Directive must be blocked;
4. Calls on the Council and the Member States to thoroughly discuss the issues raised by the recent Court rulings; strongly urges the Council to take action to ensure the primacy of social rights over the freedoms of the internal market; therefore requests a thorough revision of the Treaties in order to open the road towards a Social Europe; considers that if the European institutions fail to deliver on this, the serious crisis of legitimacy of the current European economic and social model will deepen dramatically;
5. Takes note of the Commission's first biennial report on the situation of social services of general interest in the EU; insists that the issue of services of general interest is another important point where revision of the treaties is needed; in that respect emphasises the need for clear provisions in EU primary law indicating that public goods, public services, services of general interest and the non-profit sector are not subject to the rules on competition, State aid, public procurement and the internal market, but form a sector which is guided solely by the public interest and which is organised according to the principle of subsidiarity within the sole competence of the Member States and their respective regional and local authorities to ensure their proper functioning;
6. Recalls that the Lisbon Treaty has already been rejected by the Irish people in the only referendum held on it in the European Union; calls on the Council to stop the ratification process, and, as a first step towards remedying the situation, to introduce a 'Social Progress Clause' as a binding Protocol to the existing Treaties with the aim of clarifying the following points:
 - that the Treaty may not be interpreted as affecting in any way the exercise of fundamental rights as recognised in Member States, including the right to strike and to take collective action at national level and also the right to cross-border strikes and collective action;
 - that these rights also include the right or freedom to take other actions covered by specific industrial relations systems in Member States, including actions aimed at initiating the conclusion of collective agreements going beyond minimum wages and minimum standards;
 - that the Treaty may not be interpreted as affecting in any way the industrial relations and collective bargaining systems as recognised in Member States;
 - that the Treaty may not be interpreted as affecting in any way the competences of Member States to adopt social policy legislation that provides for higher standards and

requirements than those laid down in EU Directives stipulating minimum standards;

- that wherever the rights cited above and Member States' social policy competences or industrial relations systems might conflict with internal market regulation or the 'fundamental freedoms' of the internal market, the former (fundamental rights etc.) must prevail over the latter;
- 7. Points out that the legislative projects contained in the 'Social Package' either aim to increase the liberalisation of the internal market, as in the case of the proposed Directive on 'the application of patients' rights in cross-border healthcare', which is modelled on the old Bolkestein proposals on health care in the framework of the Services Directive, or lack ambition to promote social progress, as in the case of the proposal on the revision of the European Works Council Directive, and that therefore they are not adequate tools for 'restarting Social Europe' as the French Presidency claims;
- 8. Points out that health services have been excluded from the Directive on Services in the Internal Market for good reasons, as health care is part of social security systems and not a field where market forces should prevail; underlines that there is neither any need for the European Union to regulate health care on the basis of internal market rules, nor does it possess any such competence; insists that the issues addressed by the Commission's proposal for a Directive must be solved and regulated as part of the coordination of social security schemes (Regulation (EC) No 883/2004);
- 9. Strongly criticises the Commission proposal for a Directive on the application of patients' rights in cross-border health care; points out that this proposal is based on an internal market approach and is mainly designed to enable wealthier and better educated people to go shopping for cheaper health care abroad; considers that the proposal undermines equality in health care systems, as the reimbursement for patients from poorer Member States will not allow them to cover treatment costs for high-quality health care in richer Member States;
- 10. Strongly criticises the fact that the Commission proposal for the revision of the Directive on European Works Councils (EWC) lacks ambition; reminds the Commission of Parliament's demands for the revision of that Directive already stated seven years ago in its resolution of 4 September 2001, which have not been taken on board;
- 11. Emphasises the core needs for a revision of the EWC Directive: an improved definition of 'information' and 'consultation' (detailed written information provided in due time) and of 'transnational' matters, the lowering of thresholds for establishing EWCs, recognition of the role played by and the rights of trade unions and improved working conditions for EWCs, effective, proportionate and dissuasive penalties for companies flouting the provisions of the Directive, and the establishment of a right for EWCs to veto management plans for restructuring, mergers and take-overs or layoffs, postponing any final decisions until the EWC has been able to propose alternative solutions and these have been discussed in detail between the EWC and management;
- 12. Welcomes the fact that the Commission proposes a horizontal Directive outlawing discrimination outside employment; strongly criticises the fact that insurance and other financial products are not to be covered by the Directive, allowing the financial and

insurance industry to continue with the discriminatory practice of demanding higher contributions because of risks related to health, age, gender and disability;

13. Points out that third-country nationals need to be granted access to employment in the EU, as well as equal rights, particularly in relation to salaries, collective bargaining and social protection; urges the inclusion, within European decisions and framework decisions, of all provisions established by the International Convention on the Protection of the Rights of Migrant Workers and Members of their Families, adopted by the UN General Assembly on 18 December 1990; supports the idea of a residence permit for job seeking;
14. Takes note of the Commission's aim to improve the visibility and working methods of the EU Strategy on Social Inclusion and Social Protection and strengthen its interaction with other policies; points out, however, that the Commission and the Council rejected the call by Parliament for the introduction of a new guideline on Social Inclusion into the Employment Guidelines 2008-2010 and thus refused to improve such visibility and interaction with other policies;
15. Supports the Commission's proposal to set targets for the reduction of poverty (in general and of child poverty, in-work poverty and persistent long-term poverty) and its proposals on a minimum level of income provided through pensions and on access to and quality of health care (reducing infant mortality, enhancing health status and life expectancy, etc.) for the next phase of the EU Strategy on Social Inclusion and Social Protection; insists that such targets must also be set in relation to minimum income schemes (60% of the national median equalised income) and minimum wages (60% of the national or sector-specific average wage) in order to combat poverty and social exclusion;
16. Supports the Commission's aim to promote the concept of Decent Work in the EU's internal and external policies; points out that one important pillar of the concept of Decent Work is the notion of 'freely chosen employment', which must be guaranteed; insists, therefore, that Member States revise labour-market policies which force unemployed people into low-paid, precarious employment not freely chosen by them or to work for their welfare benefits (workfare programmes);
17. Supports the Commission's proposal to incorporate international maritime working standards (ILO MLC of 2006) in European labour law based on the European agreement between employers and trade unions in that sector; also supports the Commission's move on priority implementation of ILO conventions; underlines, however, that the ECJ ruling in the Ruffert case contradicts ILO Convention 94, which explicitly allows compliance with collective agreements to be required in public procurement regulations; calls on the Council and the Commission to put ILO Convention 94 on the list for priority implementation;
18. Agrees with the Commission that more action is needed to reduce and eradicate the gender pay gap in the European Union; calls on the Commission and the Council to further strengthen the legal framework, to set a target for reducing the gender pay gap also with regard to access to vocational training and recognition of women's qualifications and skills, the part-time gender pay gap and the gender pension gap, and to promote equality clauses in public contracts;

19. Takes note of the Commission's report on Community Instruments and Policies for Roma Inclusion; underlines the need for firm action for Roma Inclusion (a Roma Action Plan) as demanded by Parliament's resolutions on this topic;
20. Points out that any meaningful 'Social Package' promoting social progress must be complemented by supportive economic and structural policy measures; considers that the Stability and Growth Pact must be revoked and that the monetary policy of the ECB must be relaxed in order to counter the effects of the current economic slowdown in Europe; calls on the Commission and the Council to draw up a 'European Investment Programme for Sustainable Development, Employment and Social Inclusion' to which at least 1% of EU GDP should be allocated, which should be complemented by similar public investment programmes of the Member States in order to stabilise the economy, counter climate change and promote full employment with quality jobs and social rights; proposes that Member States also introduce measures to stabilise and enhance the purchasing power of people on low incomes (faced with rising prices of food, energy and transport), for example by introducing social default tariffs for gas, electricity, telecommunications, public transport, etc.;
21. Notes that the current Lisbon Strategy of the European Union is due to expire in 2010; considers that a thorough reflection must start now on the future strategy for the period after 2010; emphasises that the current focus on market liberalisation and 'competitiveness' must be abandoned and replaced by a new integrated European Strategy for Solidarity and Sustainable Development which is based on four pillars assigned equal weight (the economy, the environment, employment, social protection and social inclusion);
22. Instructs its President to forward this resolution to the Council, the Commission and the Parliaments of the Member States.