Empty hopes related to the article 152 of the Lisbon Treaty or...should we take the potential of EU social dialogue seriously?

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• Article 152 of the TFEU states that Union recognises and promotes the role of social partners at its level taking into account the diversity of national systems. It shall facilitate dialogue between the social partners respecting their autonomy. The Tripartite Social Summit for Growth and Employment shall contributes to social dialogue.
The scope of article 152 TFEU

• Article 152 TFEU does not define the scope of its application. In order to define it, one needs to provide an interpretation of its regulations.

• Firstly, point 2 article 152 indicates unambiguously that the scope of application is not limited to “social policy” as defined in title X of TFEU (as the scope is not limited to the issues included in the EU legislative competencies indicated in article 153 of the TFEU). The Tripartite Social Summit for Growth and Employment, mentioned in point 2 article 152, points out the economic development issues in the broadest sense, including, at the very least, the issues related to employment (title IX of the TFEU – Employment).

• In other words, there is no doubt that the scope of article 152 is not limited to the EU legislative competencies in the sphere of social policy.

• As B. Veneziani points out, article 152 TFEU creates certain legal obligations for all of the EU institutions whenever their actions have social consequences. It is not limited to the obligations resulting from article 154 TFEU (consulting social partners) or 155 TFEU (the right to negotiation for social partners).
Social partners

• Article 152 undoubtedly creates certain obligations which are addressed to the European Trade Union Confederation (ETUC) and their industry federations.

• Other addressees are BusinessEurope, CEEP and UEAPME and industry federations associating national sectoral employers’ organisations. The rights of the indicated social partners involve being accepted or promoted by the EU.

• It seems however, that understanding the obligations resulting from article 152 as limited to the European social partners is insufficient.

• In my opinion it is not possible, logically speaking, to separate the influence exercised on the European social partners from influencing their national affiliates.
European level

• Here we need to discuss both the ‘active’ approach of the European Commission, which in fact is negative in its nature because expresses in violation of European social partner’s autonomy (relatively new phenomenon) and the ‘passive’ one what is negative as well because means lack of sufficient activity as regards improving social dialogue quality.

• „Passive” – Alan Bogg, Ruth Dukes, *The European social dialogue from autonomy to here*
National level

• The deliberations concerning the obligations resulting from article 152 of the Lisbon Treaty can be separated into two spheres.

• In the first one we witness negligence of the EU institutions towards supporting dialogue between trade unions and employers’ organisations in the new member states of Central and Eastern Europe. This approach can be described as ‘passive’.

• On the contrary the second sphere is ‘active’ but one can not take it positively because by this I mean situation in which European Commission doesn’t respect the ‘autonomy’ of the social partners as regards contractual wage arrangements. This can be seen in CSR (country specific recommendations) prepared within the framework of European Semester.
What conclusions?

• Neither on the EU level nor on the national levels the Commision seems to use the article 152 in proper meaning

• The Commision is ’active’ when one could expect ’passive’ approach

• And it is ’passive’ when more ’acitivity’ is needed

• Can we still be convinced that the wording of article 152 doesn’t bring only empty hopes?