

Paweł Frankowski

Jagiellonian University

pawel.frankowski@uj.edu.pl

Labor standards and external promotion of European norms

The European Union doesn't have its own labor code defining the rights and obligations of employees and employers. Employment policy and social policy lay essentially within the competences of the Member States. Moreover the EU is not a signatory to ILO conventions, and cannot ratify any the ILO Conventions, because only EU member states can be signatories. Nevertheless according to the article 153 TFEU the EU shall support and complement the activities of the Member States regarding labor issues, as protection of workers and modernization of social protection among many others. Thus labor norms and standards have been promoted via different methods and different techniques, and different actors have been involved, not necessarily with full consent and support of member states. Aforementioned complementary activities could be found in the free trade agreement signed by the EU with South Korea, and will be found in upcoming agreements with the US, Singapore, India, and Canada.

The article analyzes limits for external norm promotion by assessing labor clauses in EU FTAs and their effectiveness, as well as the relevance of European labor standards to other states. It identifies core European methods and norms for promoting labor standards, with emphasis on relations with developed and developing countries. The article seeks to move beyond traditional explanations of relatively limited impact of European group of norms on labor issues, and proposes an alternative framework of analysis, where non-state actors play more important role than EU member states and the Commission. Finally, it argues that ethical and moral arguments visible in the EU position towards labor rights, evolved, and social corporate responsibility has been

elevated as another area of possible EU influence, where specific European norms could be promoted¹.

The article provides in the first part a brief overview of theoretical framework of European approach to promotion of European norms regarding labor standards, and policy transfer as a promising model of promotion of European norms. Then, it examines “promotion of labor standards” as one of driving concepts of European external policy, with regards to developing countries, and as an issue of secondary importance with regards to developed countries and rising powers. Second part is devoted to analysis of free trade agreement with South Korea (KOREU), and proposed free trade agreement with the US, and American approach to labor standards in FTAs, with emphasis on effectiveness of labor provisions. Part three seeks the explanation for European model of labor standards in existing and negotiated FTAs. It argues that EU member states decided to lower the bar for labor standards in FTAs, and such lowering could be explained rather by non-normative factors than normative claims (as European ideology), but also by (probably) lack of communication between national representatives and negotiating team, and cleavages between member states regarding core labor standards. Moreover the agreed text of all of three upcoming FTAs (India, Canada, and the US) have been not revealed and any assessment of future implications cannot be made.

I. Labor standards and free trade agreements

As of July 2014 fifty-eight trade agreements include labor provisions, comparing to twenty-one in 2005, and four in 1995². Such development, as some authors suggest, is particularly visible in the United States, where after NAFTA, and due to strong cleavages between two parties, ratification of any FTA is depend on the political process. Thus bargain between two parties, supporting or disavowing particular

¹ Work in progress. Only partial empirical data have been collected yet.

² International Labor Office, *Social Dimensions Of Free Trade Agreements* (Geneva: International Labour Office, 2013), 1.

provisions is more important for final agreement than general idea of labor standards, but final result, with strong emphasis on labor standards, is more important. In the European Union such development occurs as well, however number of bargaining parties is much higher than in the United States. Alasdair Young suggests that, contrary to other international norms and standards, where the common denominator for EU member states is rather rule than exception³, issue of labor standards to far extent follows other differences between liberal Nordic EU member states (British, Danish, Dutch, Finnish), and the protectionist South countries (French, Italian, Spanish and Portuguese governments - Club Med)⁴. When it comes to core labor standards the EU's member states could be divided into three groups: those who consider such rules intrusive like the UK, and then strongly oppose any labor provisions, those who believe in social democratic traditions and perceive "the WTO as a way to promote human rights" (like Austria, Denmark, Germany and Sweden), and finally those states whom core labor rights are to be instrumental for trade, and provide a means to protection of national interests⁵. This observation may suggest what kind of preferences prevailed during the negotiations over particular FTAs, and then retrace a hierarchy of preferences. Nevertheless, states' preferences not necessarily are reflected in the final and agreed text.

As of 2014 labour standards are not covered by the competence area of the World Trade Organization. At the first WTO Ministerial Conference in 1996 in Singapore question of linking labor standards to international trade has been rejected as a matter of the meeting (like the so-called Singapore issues⁶). In the Ministerial Declaration adopted at the meeting, WTO members reaffirmed their commitment to respect core labor standards recognized at international level, while stating that the organization competent to establish labor standards is the International Labour Organisation (ILO).

³ Cf. Anders Ahnlid, "Setting the Global Trade Agenda: The European Union and the Launch of the Doha Round," in *European Union Negotiations: Processes, Networks and Institutions*, ed. Ole Elgström and Christer Jönsson (Routledge, 2005), 130–147.

⁴ Alasdair R. Young, "Trade Politics Ain't What It Used to Be: The European Union in the Doha Round*," *JCMS: Journal of Common Market Studies* 45, no. 4 (2007): 807, doi:10.1111/j.1468-5965.2007.00748.x.

⁵ *Ibid.*, 808.

⁶ Cf. Mathieu Rousselin, *The EU as a Multilateral Rule Exporter. The Global Transfer of European Rules via International Organizations*, Transformative Power Europe Working Papers 48 (Berlin: Freie Universität Berlin, 2012), 23.

They expressed the belief that the development of trade and trade liberalization will enhance promotion of labor standards. However, they made a reservation, that the labor standards should not be used for protectionist purposes. Also agreed that the comparative advantage of countries, particularly developing countries, the benefits resulting from low wages, cannot be questioned.

Adopted in 1998 ILO Declaration on Fundamental Principles and Rights at Work (ILO Declaration on Fundamental Principles and Rights at Work) requires members of the organization to respect, promote and to realize the four principles concerning the fundamental rights which are the subject of ILO conventions. These are:

1. freedom of association and right to collective bargaining (Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise Convention, 1948, and No. 98 on the Right to Organise and Collective Bargaining Convention, 1949);
 2. the elimination of all forms of forced or compulsory labor (Convention No. 29 on Forced Labour, 1930 or compulsory, and Convention No. 105 concerning the Abolition of Forced Labour, 1957);
 3. the effective abolition of child labor (Convention No. 138 concerning Minimum Age for Admission to Employment, 1973 and Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of Child Labour, 1999);
 4. elimination of discrimination in respect of employment and occupation (Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951 and Convention No. 111 concerning Discrimination in Respect of Employment and Occupation of 1958).
- Compliance with these four categories of rights for the members of the ILO is compulsory, regardless of whether they have ratified the relevant conventions or not.

The European Union does not have its own labor code defining the rights and obligations of employees and employers. Employment policy and social policy are essentially within the competence of the Member States. In accordance with Art. 153 TFEU, which is the legal basis for EU legislation on the protection and improvement

of working conditions, the Union shall support and complement Member States' action in the following areas:

a: improving the working environment to protect the health and safety of workers; b: working conditions; c: social security and social protection of workers; d: protection of workers where their employment contract is terminated; e: providing workers with information and consultation; f: representation and collective defense of the interests of workers and employers, including co-determination; g: conditions of employment of third-country nationals legally residing in the EU; h: the integration of persons excluded from the labor market; equality between men and women with regard to their labor market opportunities and treatment at work; j: the combating of social exclusion; k: the modernization of social protection systems.

In the first nine listed areas { letters a) - i) } the Treaty on the Functioning of the European Union (TFEU) authorized the European Parliament and the Council to adopt minimum requirements in the form of directives. This means that national legislation may provide for more stringent standards than those laid down in the conventions. As a result, workers' rights and the requirements for health and safety in the workplace in the Member States vary. Some of the EU directives apply to classical matter of labor law⁷, the other - the protection of employees in case of massive restructuring⁸. Some of the directives are responses to the new challenges, such as atypical employment and the formation of large-scale transnational companies and the related posting of workers in the system of subcontracting⁹. A number of directives relates to health and safety¹⁰ and collective labor law (including the social dialogue at European level and the creation of European Works Council). All EU Member States

⁷ Directives: 91/533/EEC on the obligation to inform employees about the content of the contract of employment or employment relationship 93/104/EEC on selected aspects of working time, 94/33/EWG on the protection of young workers.

⁸ Directives: 75/129/EEC on collective redundancies and 77/187/EEC on the protection of employees in the event of transfers of undertakings, 80/987/EEC on the protection of employees in the event of insolvency of their employer

⁹ Framework Directive No. 89/392 concerning safety and health in the workplace and Directive 91/383/EEC on improving the health and safety of workers in the framework of employment for a specified period or under a temporary employment relationship, 96/71/EWG on the posting of workers in the framework of the provision of services, 97/81/EWG on the work carried out in part-time work, 99/70/EWG on fixed-term work.

¹⁰ Directives: 2004/37/EC on exposure to carcinogens or mutagens at work; 98/24/EC concerning the risks related to chemical agents at the workplace; 89/655/EC on the use of work equipment by workers at work; 89 / 656/WE use of personal protective equipment at the workplace and 1999/92/EC of the safety and health protection of workers in workplaces where explosive atmospheres may occur

are members of the International Labour Organisation. Number of conventions that ratified the Member States is very different (eg France - to 124, Spain - 133, Italy - 112, Poland and Sweden - 91, and Estonia to 38). Where the scope of the Convention shall be part of the Union's competences, the Member States must obtain authorization from the Council to ratify it (Article 3. 2 TFEU). At the same time, the European Union cannot ratify the ILO Convention no, because only states can be parties thereto. Thus Article 3.2 TFEU creates vague situation for member states. On the one hand, there is no common European employment policy, and labor issues and labor standards are regulated mostly under domestic law. But on the other hand, aforementioned set of directives limits, to far extent, states' ability to create independent and unconstrained system of labor.

In recent years signed bilateral agreements establishing free trade areas, where the European Union is a party, various provisions on workers' rights have been included. In these agreements various provisions have been adopted which are not always included in the ILO conventions. Their shape depends largely on the level of economic development of parties. In some agreements one may find provisions for limiting the ability of social dumping or establishing a special committee to resolve bilateral disputes concerning performance of the contract in the areas of labor law. Some contracts provide for recourse to WTO dispute settlement system and WTO panels, which does not mean, however, that this option is used.

The EU adopted or is negotiating FTAs with three groups of states and respective FTAs could be distinguished as: developing countries, rising powers and developed powers. Classifying particular state to one of these groups translates into specific model of relations and expected behavior, where economic factors are crucial variables, but must be analyzed from different perspective, and with different boundary conditions. This means that given input from European side results in unique manner, which depends overwhelmingly on volume of trade between participants and, to some extent, level of GDP of non-EU partner.

Relations with developing countries, based on long-dure tradition of colonial supremacy¹¹, usually are treated as relations between unequal players when it comes to bargaining power and ability to transfer particular norms. However an example of Economic Partnership Agreements (EPA), unsuccessful attempt to bond ACP countries with FTAs designed and promoted by the EU as ideal solution for developing countries of Africa rises a question for discussion of supposedly weaker position of African players, and, what is more important, about general idea of normative power Europe¹². Even some states, grouped in Cariforum, in fact much smaller than African countries, decided to sign and implement EPA, it is perceived rather as a result of asymmetric bargaining than influence or transfer of European norms¹³.

Thus given the fact that developing countries, and relatively weaker players in the world politics have decided to gratefully accept unconditional European development support, but refused to undertake serious commitments might suggest that rising powers will be even more assertive. However comparing these two group of states one should remember that relations with, for example, Indonesia, Mexico, Brasilia or South Korea, are based on different logic. Such countries, with growing economies with GDPs based on export, have to build proper relations with demanding trading power¹⁴. Therefore a room for negotiation is larger, and possibility to transfer European labor standards (combined with environment) is higher, when trading states want to pursue their economic interests and can agree for concessions. However,

¹¹ Gerrit Olivier, "From Colonialism to Partnership in Africa–Europe Relations?," *The International Spectator* 46, no. 1 (March 2011): 53–67, doi:10.1080/03932729.2011.549754; Andy Storey, "Normative Power Europe? Economic Partnership Agreements and Africa," *Journal of Contemporary African Studies* 24, no. 3 (2006): 331–346, doi:10.1080/02589000600976646; Patrick B. Fazzone, "Trans-Pacific Partnership-Towards a Free Trade Agreement of Asia-Pacific, The," *Geo. J. Int'l L.* 43 (2011): 695; Sebastian Krapohl and Simon Fink, "Different Paths of Regional Integration: Trade Networks and Regional Institution-Building in Europe, Southeast Asia and Southern Africa," *JCMS: Journal of Common Market Studies* 51, no. 3 (2013): 472–488, doi:10.1111/jcms.12012.

¹² Storey, "Normative Power Europe?"; Pawel Frankowski, *Economic Partnership Agreements as an Instrument of Regional Integration Promotion in Sub-Saharan Africa*, Natolin Papers 44 (Warsaw: CEN, 2011); Tuomas Forsberg, "Normative Power Europe, Once Again: A Conceptual Analysis of an Ideal Type," *JCMS: Journal of Common Market Studies* 49, no. 6 (2011): 1183–1204, doi:10.1111/j.1468-5965.2011.02194.x; Ian Manners, "The Normative Ethics of the European Union," *International Affairs* 84, no. 1 (2008): 45–60, doi:10.1111/j.1468-2346.2008.00688.x.

¹³ Tony Heron, "Asymmetric Bargaining and Development Trade-Offs in the CARIFORUM-European Union Economic Partnership Agreement," *Review of International Political Economy* 18, no. 3 (2011): 328–357, doi:10.1080/09692290.2010.481916.

¹⁴ Sophie Meunier and Kalypso Nicolaïdis, "The European Union as a Conflicted Trade Power," *Journal of European Public Policy* 13, no. 6 (2006): 906–925.

closer look on FTA with South Korea (KOREU) provides negative answer for normative strategy of European Union, and labor standards (see below) were secondary issue for negotiating team.

Third group represents developed powers, like Canada, the US, Australia, but also China and Russia, where roles might reverse, and the EU, seeking for norms' transfer, will have to deal with equally powerful partner in negotiations, and then any transfer of norms will be possible only thanks to consent. Like in first and second example, economic factor and value of trade will be important for deeper analysis, but elements of prestige must not be neglected. Moreover when states form first and second group, to far extent, are importers or opponent to European norms, third group consists of norm entrepreneurs. Because all three FTA (with India, Canada, and the US) are not public, we can only assume, basing on negotiation mandate, what kind of labor standards will be included into future agreement.

II. Free Trade Agreement with South Korea

The European Union in its bilateral and regional agreements generally focused on the goals of social development cooperation. It does not apply trade sanctions to social norms and labor standards. Countries that have signed and effectively implement the fundamental rights of the international conventions of the UN / ILO offers additional customs preferences GSP + ¹⁵. In 2012, signed a free trade agreement between the EU and the Member States and Colombia and Peru both parties are committed to the effective implementation of ILO fundamental conventions (Article 269 paragraph 3) and the exchange of information on the progress in the ratification of the Convention priority (art. 269 paragraph4). Also recognized that labor standards should not be used for protectionist trade purposes, a comparative advantage in this respect should not be questioned. Provisions of the free trade agreement between the EU and Korea (hereinafter KOREU), look very similar, where the art. 13.4 relating to multilateral norms and agreements on, parties to the agreement are committed to

¹⁵ ILO, European FTAs, http://www.ilo.org/global/standards/information-resources-and-publications/free-trade-agreements-and-labour-rights/WCMS_115822/lang--en/index.htm

efforts to ratify the core conventions (Korea signed only four of the eight core conventions) and other conventions that have been classified by the ILO as " updated" (paragraph 3). However in the KOREU there is no claim as included in the agreements with Peru and Colombia to ban the use of labor standards for commercial purposes, which may reduce to a large extent the settlement of disputes on the issue of non-tariff related issues of labor law restricting free trade. This is a situation quite special considering that South Korea is not a party to the Convention on forced labor, as well as the Convention on the law of association, which can affect the nature of the relationship between employers and workers and, consequently, increase the comparative advantage of that country. Hence, the indicated agreement provided only the provisions of the commitment of the parties to respect, promote and reflected in regulations and practices applicable fundamental rights of all members of the ILO under the Declaration of 1998. Article 13.7 provides for the maintenance of levels of environmental protection and labor (paragraph 1), and that neither party can weaken or limit the protection in the work provided for in its legislation, to stimulate trade and investment (paragraph 2), however, an open question is how resolve violations of these obligations, because there is no information about the functioning of a consultative mechanism on the resolution of disputes in this area. Provided for in Art. 14 dispute settlement system also covers issues of labor law, but there is no clear interpretation of how the parties would have to prove the link between the breach of the fundamental principles and stimulating trade and investment. Although art. 13.12 implies the existence of institutional mechanisms, which are designed to support implementation of the provisions of Chapter 13, but it is too early to assess the effectiveness of this solution. In addition, the internal advisory groups designed to provide advice on the implementation of the provisions of Chapter 13, who are " independent representative organizations representing civil society organizations in a balanced environmental, labor and entrepreneurship, as well as other interested parties" - are not competent to decision-making, but only formulate non-binding opinions. The contents of the statement of the Commission annexed to the agreement specifies that its composition will compose of equally numerous representations of employers, trade unions and non-governmental organizations and the European Economic and Social Committee.

Detailed conditions for the functioning of the group will be agreed with stakeholders. This group, functioning at the level of the EU consists of 12 members, representing the EESC (3 people), trade unions, entrepreneurs, but also lobbies such as APRODEV (associated with the World Council of Churches) and the Eurogroup for Animals .

As of 2014 there is no detailed research on how European labor standards have been executed and promoted through FTAs, and existing literature suggests possible positive role of dialogue and norms on the European side¹⁶. Nevertheless I argue that one of most important FTA for European economy nowadays, namely KOREU, gives rather negative example of European impact, and speculations about future improvement are far-fetched. Some scholars pointed out that it's hard to develop common position of the EU in the international arena regarding labor standards. For example Marianne Riddervold pointed out that the key to the legislation of the Member States relating to the Convention on maritime labor EU preferences were not consistent with the preferences of the Member States, which made it difficult to reach a common position. The common position of the EU sought to improve the protection of workers, even when would result in increased costs. Thus, the normative factor prevailed on economic factor. On the other hand Robert Kissack notes that the activities of the EU in the ILO is difficult to assess in terms of efficiency or convergence of interests of the Member States with the Commission, since in many cases the objectives set by the Commission differed from those of the Member States, and latter cannot always converged¹⁷. Thus it can be argued that strong Member States, regardless its position on the map, drawn by Young¹⁸, with clearly defined economic interests associated with the regulation of labor standard will not support the EU in this area. But an example of Convention on maritime labor, which is not ratified, inter alia, by United Kingdom, Germany and Italy, clearly shows that as assumption on normative claims versus economic issues falls when economic interests are important.

¹⁶ Evgeny Postnikov, Ida Bastiaens, „Does dialogue work? The effectiveness of labor standards in EU preferential trade agreements”, *Journal of European Public Policy* 21, no 6 (2014): 923–40, doi:10.1080/13501763.2014.910869.

¹⁷ Robert Kissack, “The Performance of the European Union in the International Labour Organization,” *Journal of European Integration* 33, no. 6 (2011): 651–665, doi:10.1080/07036337.2011.606689.

¹⁸ Young, “Trade Politics Ain’t What It Used to Be.”

When FTAs negotiated and signed by the EU are very vague by nature, when it comes to labor standards, the issue of labor rights in free trade agreements concluded by the United States, especially after 2007, is very important. It should be noted that in these agreements labor law is the subject of very detailed regulations, and included provisions go far beyond the model adopted by the European Union. This is primarily due to the fact that the United States, despite membership in the ILO, are not bound by a majority of the provisions of international agreements. The US ratified only 14 of the 189 ILO conventions so far, including two of the eight core conventions (Convention on the Abolition of Forced Labour and the Convention on the worst forms of child labor) and one of the four priority Conventions (on tripartite consultation)¹⁹. Since the proposed agreement will cover highly developed countries, free trade agreements concluded by the United States from Peru or Colombia is an appropriate point of reference. Some guidance on the content of a future agreement TTIP can supply agreement between the U.S. and Australia²⁰. The agreement, in addition to the clause commonly found in other agreements, that wrong is to encourage trade or investment by weakening or reducing the protection of existing labor law of the parties (Article 18. 2 point 2), defined international rules and rights such as the right of association, right to collective bargaining, prohibition of forced labor, child labor and acceptable conditions of work (Article 18. 7). These definitions involve two parties, whereby Australia has adopted these rules before by ratification of ILO basic conventions. Thus, although the United States is not a party to most of the conventions of the ILO adopt a kind solutions developed in the various conventions .

The agreement with Australia also provides the ability to create a working subcommittee, composed of representatives of the central government responsible for matters of work and employment (Article 18 para. 4, point 2). A similar solution has been applied in the agreement KOREU, but not as precisely regulated as in the case of US- Australia agreement. It would be worthwhile to consider the possibility of establishing such an institution in the planned EU-US agreement. This would give the

¹⁹ *Ratifications of ILO conventions: Ratifications for United States*, http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0:NO:11200:P11200_COUNTRY_ID:102871, [dostep 30.6.2013].

²⁰ *Australia – US Free Trade Agreement*, http://www.ustr.gov/sites/default/files/uploads/agreements/fta/australia/asset_upload_file148_5168.pdf

opportunity to effectively resolving disputes related to labor issues and monitoring issues related to employment. However, avoiding general terms and - following in the wake of the US- Australia agreement - defined in the chapter on work, concepts such as labor law obligations, the parties, etc., as has been done in the art. 18.7 point 2b. Such a solution would serve to protect the interests of the Member States, as it would limit the ability of interpretation incompatible with the objectives and spirit of the international agreement. It is expected that such a solution will pursue by the American side, since such a solution appears in one of the recently concluded free trade agreements, such as the agreement between the U.S. and Korea (KORUS) of 2011²¹. The KORUS agreement agreed to the appointment of the Labour Affairs Council, which task is to ensure the proper performance of the contract (Article 19 paragraph. 5). Unlike the US- Australia agreement, Labour Council is the body, whose appointment is mandatory. Comparing the KORUS agreement and the agreement between the EU and Korea, it should be noted that the agreement KOREU has less favorable character for the EU (and Member States), as part of the Korean commitments are unclear. This is due to the fact that the agreement makes reference to the ILO Declaration, and not to the convention because, as mentioned above, Korea is not a party to all core ILO conventions. Such provisions are quite surprising and rise a question for future research, namely what kind of arguments prevailed among EU negotiators. According to Congressional Research Service, Korean labor market has serious flaws and, more than 200 unionist are imprisoned for “exercising labor rights”. Moreover labor market is divided into two groups: one-third of labor force, well paid, and represented by strong unions, and two-third consists of temporary and day workers, without basic labor rights. Adopting European standards, and strengthening labor norms could be used as an effective tool for free trade area, created by KOREU. But one might assume, that opening Korean market for European services, based on local contractors, will allow to strengthen the position of European companies, due to cheap labor.

²¹ William H. Cooper et al., *The U.S.-South Korea Free Trade Agreement (KORUS FTA): Provisions and Implications*, Congressional Research Service, March 7, 2013, <http://www.fas.org/sgp/crs/misc/R40967.pdf>.

III. Proposed TTIP (Transatlantic Trade and Investment Partnership) agreement and CETA (Canada European-Free-Trade-Association Free Trade Agreement)

In the negotiating mandate for proposed TTIP agreement the issues of employment and work appears in several places. The preamble provides the parties' commitment to contribute to sustainable development, including in economic terms, including full employment and decent work for all. Moreover the parties' right to take measures necessary to protect jobs are emphasized. In the "Goals" (points 8 and 31) indicated that the parties should recognize sustainable development as its primary objective and that the promotion of a high level of protection of workers' rights will be carried out in compliance with international agreements and standards and in accordance with the EU acquis and Member States. The development of trade and foreign direct investment should not occur as a result of lowering the national labor laws or by loosening regulations to protect and promote cultural diversity. That is the desire to avoid the race to the bottom, with regards to labor standards.

This means that on the basis of a new agreement parties can only raise the standards of labor protection, the Member States retain the right to their own solutions in this area, and in the areas where the EU has competence only if it is in the interest of the EU (for the need to obtain the consent of the EU). It also follows from the fact that the right to join and reject ILO conventions remains within the competence of the Member States, which allows for the formation of labor standards at the level of Member States. In paragraph 18 of dedicated services indicated that the law of the EU and the Member States, the regulations and requirements in relation to work and employment conditions will continue to apply.

The most important provision in the negotiating mandate in the area of labor law is an indication contained in the section on trade and sustainable development, that support decent work is to be done through the implementation of the national legislation of basic labor rights, according to the ILO Declaration on Fundamental Principles and Rights at work (paragraph 32). It is envisaged the establishment of a coordination mechanism, which is basically a duplicate of solutions of the EU- Korea -

KOREU, but there is no specific proposals on how this mechanism would work. It is anticipated participation of civil society in monitoring the implementation of the agreement. However, one can assume that, as in the case of KOREU, representatives of civil society will have an advisory vote only, without the possibility of interfering with nature and shape of the executed agreement. For example in KOREU no possibility of initiating procedures for dispute concerning labor standards by representatives of civil society has been provided. It means that civil society representatives, and unions, have only advisory voice, and variety of non-governmental actors have been excluded.

The new element, which appeared in the proposed negotiating mandate, is the inclusion in the proposed agreement " recognized international standards for corporate social responsibility ." The inclusion of international corporations among the full-fledged participants in international relations, which are subject to international legal protection, but also have certain obligations, may be questionable. Certainly, corporate social responsibility is an essential component of the protection of workers' rights, but it should be noted that the judgment of the Supreme Court - *the United States on Kiobel v. Royal Dutch Petroleum Co.* April 2013 (docket no. 10-1491) restricts the claims in the United States based on Alien Tort Statute advanced to the corporation, which gives considerable freedom of action of transnational corporations. Placing the agreement TTIP provisions relating to corporate social responsibility, should - in theory - take into account the responsibilities of transnational corporations for actions outside the socially accepted norms .

Another example of FTA – group III is CETA (Canada European-Free-Trade-Association Free Trade Agreement). As of July 2014 the final text of CEFTA is agreed, but not public. Yet, we don't know what kind of provisions and standards have been developed in the agreement. In 2008 Canada signed Canada–European Free Trade Association Free Trade Agreement with EFTA countries (Iceland, Lichtenstein, Norway and Switzerland) and no special provisions on labor standards were put into the final text. However similar agreement between Canada and Colombia is much more developed and chapter sixteen (articles 1601 to 1605) envisages *Labour Cooperation Agreement between Canada and the Republic of Colombia* (LCA- 1604).

Non compliance with LCA may result with financial penalties, due to judgment of independent review panel. Such “monetary assessment” in future CETA agreement might appear as well.

Free trade agreements should be treated as litmus for ability of European Union to shape treaties with different actors regarding the same area. I argue that labor standards are of secondary importance for European Union, and example of Canada and United States clearly show its weakness regarding labor standards. It also raises the question of European preferences for or against labor standards external policy and policy of co-ordination between member states. Yet, I argue that normative elements of European external trade policy collapse when national preferences and economic interests. However, another explanation is also possible; national governments might lost control of agenda setting after presenting their negotiating positions, but it needs to be confirmed by empirical research. Another open question for future research is role and scope of EU – Korea FTA Civil Society Forum where after five meetings no press releases have been issued.

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