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Book

Social embedding and the integration of markets: An opportunity for transnational trade union action or an impossible task?

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Manfred Weiss (eds)*

Social Embedding and the Integration of Markets

An Opportunity for Transnational Trade Union Action or an Impossible Task?

edition der
Hans **Böckler**
Stiftung 

Fakten für eine faire Arbeitswelt.

Otto Jacobi

Maria Jepsen

Berndt Keller

Manfred Weiss (eds)

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As on previous occasions, the European Trade Union Institute for research, education, health and safety and the Hans Böckler Foundation are pleased to offer participants at the 11th ETUC Congress (Seville, May 2007) and the 8th European Industrial Relations Congress (Manchester, September 2007) a volume of contributions by prominent academics on the situation of the trade unions in the European Union.

A twofold consideration underpins this volume:

- On the one hand, increasing signs suggest that the age of neoliberal supremacy is approaching its end. The attraction of allowing free play to market forces in transnational economic areas is diminishing. Social exclusion and growing inequality, the flawed underside of neoliberalism, erode its moral fibre and distort its picture of an ordered universe. In the EU and – perhaps even more strikingly – in the USA the time seems ripe for a change of opinion and a new policy direction. In the first part of this volume our authors, focussing on the notion of social embedding, seek to provide scientific underpinning for the new trend and to start up a discussion on alternative ways of shaping and regulating the operation of transnational areas.
- On the other hand, in the EU in particular, it is becoming increasingly clear that a cross-border economic and monetary area leads also to internationalisation of the labour market. An equally inevitable development is the loss of sovereignty of nation-states, as their economies are becoming largely denationalised. For the trade unions this gives rise to the need for a European architecture that can house transnational forms of organisation. Accordingly, the contributors to the second part of our book discuss the opportunities and difficulties associated with the trade unions' attempts to link up their efforts and embark on trans-national policymaking ventures.

Taking up our stand against the widespread reports of crisis in relation to both European integration and the trade unions' capacity for effective action, we argue in favour of the possibility that Europe and the trade unions may grow together and ring in the changes that will effect their renewal. We thank the editors and contributors to this volume for offering support in the form of scientific analysis and political conclusions. Against the background of their tried and tested cooperation over many years, it is the wish of the European Trade Union Institute for research, edu-

cation, health and safety and the Hans Böckler Foundation to help the trade unions to discover and settle down in their new home, making Europe into a social entity with participation and benefits for all.

Reiner Hoffmann

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LABOUR, MARKETS AND THE FUTURE OF 'DECOMMODIFICATION'

Richard Hyman

EMBEDDEDNESS: THE CAREER OF A CONCEPT AND A PRACTICE

The concept of a free market is an oxymoron. The existence of contracts, as Durkheim taught us, rests on social norms which are non-contractual. Polanyi (1944) later stressed that the creation of a market economy required a massive effort of state intervention; by the same token, economic activity is universally regulated within and through society. His thesis that markets are socially embedded, later elaborated by Granovetter (1985), has also been applied to the post-1945 international order by Ruggie (1982).

Ruggie's key contribution was to argue that economic organisation at national and at international levels can follow different logics. Polanyi had anticipated symmetrical reactions to the excesses of market-making in the interwar decades: renewed state regulation of the domestic economy linked to the replacement of 'capitalist internationalism' by a new global economic order. What occurred under the Bretton Woods system, however, was a new form of international regime, involving a bounded liberalisation of external trade, but linked to Keynesian economic management and the partial decommodification of labour at national level. 'The principles of multilateralism and tariff reductions were affirmed, but so were safeguards, exemptions, exceptions, and restrictions – all designed to protect the balance of payments and a variety of domestic social policies' (Ruggie, 1982: 396).

Ruggie termed this regime 'embedded liberalism', though this might be considered a misnomer. Liberalism is indeed relative, though simple dichotomies of 'liberal' versus 'coordinated' market economies suppress such complexities. To paraphrase Streeck's argument (2001a: 6-7), all markets are institutionally embedded, but some are more strongly embedded than others. Or to put the point slightly differently, all markets are social and political constructs, even if the social embedding is markedly antisocial in its political bias (Krippner, 2001). As Ruggie defines it (1982:

381), 'in the organization of a liberal order, pride of place is given to market rationality'; on this definition, the post-war order was only partially liberal at international level, while typically non-liberal at national level. As he later summarised it (Ruggie, 2003: 93-4), embedded liberalism involved a social compromise, 'a grand social bargain', which combined 'the efficiency of markets with the values of social community'. In passing, we may note that the efficiency of markets is bounded; as North (1990: 28) calculated, transaction costs within the US economy – activities involved in 'defining, protecting, and enforcing the property rights to goods' – rose from 25 percent of national income a century ago to over 45 percent by the mid 1980s, and the proportion is presumably even higher today. By the same token, neoliberal efforts to 'free the market' from established regulatory constraints actually involve new modes of regulation and stronger (expensive) state capacity (Crouch, 2004; Weiss, 2005).

How can we apply this analysis to the process of European economic integration in the context of the broader liberalisation dynamic of international trade and capital flows? Most evidently, neoliberal globalisation and its analogues at EU level involve an effort of disembedding liberalism. The project of negative integration is precisely a drive to weaken or remove those nationally embedded social regulations which constitute obstacles to transactions across boundaries. The re-commodification of life-chances, with an inevitable increase in insecurity and inequality, is an essential element of disembedded liberalisation.

DECOMMODIFICATION AND THE EUROPEAN SOCIAL MODEL

The notion of a European social model is at one and the same time an analytical category, an ideological construct and an object of contest. As Ebbinghaus (1999) has demonstrated, the concept can be viewed as both reality and myth. Across continental western Europe, industrial relations institutions and processes (note here that in most European languages the adjective 'social' points, sometimes primarily, to the employment relationship) are structured very differently from the prevailing patterns elsewhere in the world. Markets, and not least labour markets, are embedded in – indeed, constructed by – a dense web of social regulation. As a rule there is broad social and political acceptance of the need for collective regulation of the employment relationship in order to protect labour as the weaker party, and this 'decommodification' of labour (Esping-Andersen, 1990) has three main dimensions.

First, both socialist and catholic traditions have encouraged welfare regimes which substantially insulate workers from the vagaries of the supply and demand for their labour power; and the 'social partners' have often become key actors in the development and implementation of these regimes. Second, the employer's discretion to hire and fire is extensively constrained by a web of 'employment protection legislation' (EPL). More generally, wages and working conditions are treated not simply as the private contractual concerns of the parties immediately involved but as issues with a wider societal import. Third, individual employment contracts are typically subordinate to collective ones; representative institutions of both employers and workers enjoy a recognised public status; collective employee voice is articulated within standardised systems of workplace representation, relatively independent of the employer.

Yet employment regulation takes many different forms, embodying 'state traditions' (Crouch, 1993) which are nationally specific and have contrasting implications for the relative power of workers and their employers, for the relative autonomy of 'social partners' from political authority, and for the balance of elements within the 'social wage'. In addition, the established architecture of regulation typically reflects distinctive 'post-war political-economic settlements' (Lange et al., 1982: 209), themselves the outcome of nationally varying combinations of forces: the discrediting of the old ruling class, the status won by labour movements in the struggle against fascism, the recognition of the need for systematic state intervention to prevent another collapse into mass unemployment. The idea of 'Social Europe', a key element in the official discourse of the EU for more than a decade, is a myth precisely because it suppresses such differentiating features (which, in turn, have posed substantial obstacles to any 'harmonisation' of employment regulation at European level).

The idea of social Europe is an object of contest in part as a result of this very ambiguity: precisely because there is no unique European social model, it is possible to approve the concept without signing up to any specific institutional arrangement. The probability of contention is multiplied by changes in the framework conditions within which social regulation previously developed. As Howell has insisted (2005: 35), drawing on *régulationniste* analysis, 'the transition from one pattern of economic growth to another will create a set of problems that are not easily resolvable using existing institutions'. The completion of the Single European Market, followed by Economic and Monetary Union, evidently constituted a qualitative shift in the growth regime at European level. The crucial question has been whether economic integration should occur *within or against* existing systems of social regula-

tion; or more specifically, *which* institutional arrangements are defined as complementary to the 'free movement of goods, services, capital and labour' across the EU, and which as antagonistic. This has been the central policy confrontation, sometimes overt but more often latent, for more than a decade.

FROM EMPLOYMENT PROTECTION TO FLEXICURITY

'Labour is not a commodity', famously declared the founders of the ILO in 1919. By this they did not signal that they endorsed Marxian analysis of the relation between wage-labour and capital (for Marx, of course, 'labour power' was a commodity, even if labour itself was not). Rather, the meaning was that employment was a social relationship, involving reciprocal rights and obligations, and that the content of employment contracts would necessarily be inequitable if determined solely by the power imbalance between employer and employee. Two key elements in the social embedding of what Polanyi called the 'fictitious commodity' of labour were a recognition that substandard and precarious employment conditions had negative externalities for the broader economy and society, and a belief that the citizenship status recently won by the working class (often as the outcome of long and bitter struggle) should not be surrendered on entering the workplace.

Economic orthodoxy was never at ease either with the underlying analysis or the resulting prescriptions. If labour was not a commodity, then the labour market was not a market, and labour economics was a fictitious science. Conversely, if wages, like other prices, were primarily an allocative mechanism, 'interference' with the pricing mechanism (and with the liberty of employers to terminate what was primarily an exchange relationship) would necessarily entail sub-optimal outcomes. Commitment to a market mindset certainly helps explain the persistent antipathy of the OECD to institutionalised regulation of employment, and in particular to EPL – even though it has recently felt obliged to concede that empirical backing for its position 'is somewhat fragile overall' and that 'quite different organisational forms may be capable of similar performance' (2004: 165-6).

The long-rehearsed OECD argument has received reinforcement with the rise in European unemployment and the associated growth of a secondary sector of precarious employment. As the Kok Report put it (2003: 9), established defences against the commodification of labour threatened to result in 'a two-tier labour market where "insiders" benefit from high levels of employment protection, while an increasing number of "outsiders" are recruited under alternative forms of contracts

with lower protections'. The notion of a two-tier labour market does indeed possess plausibility, and links to growing concerns with the destructive effects of social exclusion – though Kok failed to enquire why so many European governments have chosen to permit the spread of previously outlawed 'alternative forms of contracts with lower protections'.

The prevalence of such alternative forms inspired the analysis of the Supiot Report (1999). This argued that most European labour law regimes, despite substantial national variation, reflected a 'Fordist' model of employment in which workers surrendered to an authoritarian structure of management in return for security of employment. The current reality, argued Supiot, involves a multiplicity of contractual forms, the end of the linear career which formerly prevailed, and also a significant deregulation of working time. Labour law should adapt by underpinning a *statut professionnel* (untranslatable, but roughly equivalent to 'recognised vocational status'), involving a transition from social protection to social citizenship. The implication was a strengthening of employment rights, but redefined to cover situations of temporary and quasi-employment, and a *reinforcement* of the interlinkages between labour law and the welfare regime, to accommodate the increasing prevalence of change in contractual circumstances during a working life. Such prescriptions were at odds with the deregulationist orthodoxy of the new millennium, and the Supiot Report sank virtually without trace.

The new solution to the problems which Supiot addressed is flexicurity. As originally analysed by Wilthagen (1998: 2, 13) on the basis of Dutch experience in the 1990s, 'the concept pertains to a shift from "security within a job" to "security of a job", a shift that in its turn is strongly related to changes in the economy and households and to the emergence of a corresponding flexible system of social security'. The Dutch peak-level agreement of 1996, implemented in legislation the following year, provided for a strengthening of the statutory rights of 'atypical' employees with a simultaneous relaxation of restrictions on the dismissal of employees with regular contracts (Visser and Hemerijck, 1997). Though often presented as a 'win-win' outcome, in effect this represented a trade-off between the interests of 'insiders' and 'outsiders' with the aim of counteracting the growth of a two-tier labour market (an experience which clearly contributed to the arguments of the Kok Report).

A second familiar 'model' of flexicurity is the Danish case. Here, the reference is less to a specific policy initiative than to the articulation between different elements in the system of social protection. At first sight surprisingly, for those who assume that all Nordic countries mandate high job security, Denmark has a rather limited range of statutory protections against dismissal, but job loss is cushioned by a high

income replacement rate for those who become unemployed and by high expenditure on vocational training and retraining. This 'golden triangle' (Bredgaard et al., 2005) is interpreted as enabling 'labour market security' (Standing 1999: 52) despite rates of job turnover among the highest in western Europe. This is consistent with the Supiot recommendations: to 'move from job security to workers' security' (Bevort et al., 2006: 8).

Thus does flexicurity mean a sacrifice by the relatively strong in the interests of social solidarity, or an institutional configuration combining adaptability with social protection? Or is the term, as I have suggested elsewhere (Hyman, 2005a) a 'composite resolution', a purely linguistic combination of opposites which can then be applied to virtually any policy mix? According to the Director-General for Employment, "flexicurity" is appealing intellectually because it reconciles two seemingly contradictory aspirations' (van der Pas, 2006); others might perceive a conflict rather than a reconciliation. The resolution of the EU Council in July 2003 referred to 'providing the right balance between flexibility and security' – yet as any trade unionist is aware, there is no natural equilibrium between opposing objectives, only the balance of forces. And here, the ideological dimension is an important factor. Note for example how the OECD (2006: 12) presents flexicurity: 'an approach that facilitates hiring and firing decisions while also providing efficient re-employment services'. Remarkably, security has here wholly disappeared from the definition.

The Commission, in its recent Green Paper (2006: 2), repeats the argument that maintaining existing levels of job protection for those with standard contracts (in terms of 'periods of notice, costs and procedures for individual or collective dismissal, or the definition of unfair dismissal') will inevitably result an increase in 'those precariously and informally employed' – as if this were a natural development, immune to social control. Here too, employment security is soon subordinated in the discussion to the arguments for flexibility, though there is recognition (2006: 8) of the need for 'a framework of support for employment security including social support and active measures to assist workers during periods of transition' (a euphemism for unemployment).

In short, the problem with flexicurity is threefold. First, it can provide a social fig-leaf for a deregulatory flexibility agenda. Second, as with the European Employment Strategy (EES) more generally, it maintains a predominant or exclusive emphasis on supply-side measures – a bias largely continued in the Kok report. Third, as a corollary of these limitations, workers (and trade unions) are by implication largely to blame for deficiencies in labour market outcomes and economic performance more generally; as 'insiders' they cling selfishly to protections which re-

sult in social exclusion, or as 'outsiders' they fail to make themselves sufficiently 'adaptable' and 'employable'. Yet as Esping-Andersen (2000) has shown, there is precious little evidence to support such a policy presumption.

ECONOMIC INTEGRATION AND THE CHALLENGE OF THE COMPETITION STATE

How and why did welfare states arise? It is important to raise this question before considering current threats to welfare systems and possible trade union responses. Iversen (2005) has argued that the welfare state is 'Janus-faced'. In some respects it is an egalitarian mechanism of redistributing income (and life-chances more broadly) in favour of the less advantaged. This face of the welfare state can be seen as an outcome of the conquest of political democracy and the struggles of the labour movement. But Bismarck was hardly a socialist, and neither was Lloyd George! The other face, argues Iversen, is its efficiency function. In his book he discusses in particular the ways in which protection against the unpredictabilities of the labour market encouraged workers to acquire, and employers to provide, the skills which made for a successful industrial economy. In consequence, 'social protection rescues the market from itself by... helping economic actors overcome market failures in skill formation' (Estevez-Abe et al., 2001: 145). One may add that welfare provision also helped maintain social peace, reinforced the legitimacy and cohesion of the nation-state, and increased the supply of healthy recruits to the armed forces (all relevant considerations in the case of Bismarck). The implication is clear: when there was a coincidence between the logics of economic efficiency privileged by political and business elites, and of social justice embraced by labour movements, welfare regimes could rest upon a broad consensus. But if these logics diverged, welfare would become an inevitable focus of conflict.

Does globalisation encourage such a divergence? Much recent literature makes this assumption, yet globalisation is itself a politically loaded concept. It is clear that exposure to international trade is not in itself an obstacle to generous welfare states: some of the most developed European systems are in small, export-oriented countries. However it is also plausible to argue that the growing de-nationalisation of capital, and increased opportunities for regime shopping, create pressures which may result in 'welfare dumping' – at least where corporate taxation is a major source of funding for welfare – though even here there are grounds for caution (Ferrera et al., 2001: 168).

Crucially, though, the opening out of the internal European market(s) and the broader liberalisation of international trade and investment coincide in mutually reinforcing fashion with two other trends. First, welfare spending has expanded with rising levels of unemployment, which increase the cost of labour market 'safety nets'; with the growing sophistication and expense of medical intervention; and with the pressures of greater longevity on both health care and pensions systems (Huber and Stephens, 2001). Second, the rhetoric that 'there is no alternative' to surrender to a global market logic meshes neatly with the advance of neoliberal ideology in the governance of Europe. As Cerny puts it (1997: 259-60), there has been a 'rise of a new discourse and practice of "embedded financial orthodoxy", which is in turn shaping the parameters of political action'. Hay et al. suggest (1999: 10) that 'ideas about globalisation, if not globalisation itself, continue to inform public policy decisions' and to inspire demands for welfare state retrenchment.

What Soros (1998) has called 'market fundamentalism' and Dore (2003) the 'market mindset' has become part of a growing consensus at the heart of EU governance. Though rhetorical commitment to the European social model persists, there is increasing pressure to redefine this in terms of the priorities of a 'competition state' (Cerny, 1997). Constraints on public expenditure, embodied in the Maastricht convergence criteria and reaffirmed in the Stability and Growth Pact, give additional weight to the pressures for retrenchment; while the privatisation of welfare provision – the shift from state to market and/or family (in the process driving women from employment back into the household) – is encouraged by EU competition policy (Scharpf, 2002). The logic of efficiency (as assessed by capitalist accounting principles) drives a shift from 'protective and redistributive' to 'competitive and productive' solidarity (Streeck, 2001b), subverting the social values on which European welfare regimes were once founded.

'Competitive solidarity' implies a reconfiguration of welfare states. 'Roll-backs and "restructurings" in welfare state programmes have been a universal phenomenon in the past two decades' (Huber and Stephens, 2001: 123), though changes in most countries have been incremental and domain-specific rather than systemic. As Berger has insisted (2000: 55), 'the empirical evidence suggests far greater resilience and capacity for adaptation within the format of universal social provision than... pessimistic readings of the new distribution of power within advanced societies suggest'. Even if governments without exception respond increasingly to the dictates of competitiveness, what these dictates *mean* is never unambiguous: internationalisation does not constitute 'a "single-exit situation" that forces governments to react in a particular way but a "multiple exit situation" offering a menu of

choice' (Genschel 2004: 632). Hence as Kitschelt et al. (1999: 428, 460) conclude, 'there are undoubtedly trends toward convergence in advanced capitalism, but these do not rule out that regions and countries respond to such challenges in partially path-dependent ways... that reflect the sometimes competitive, sometimes cooperative, search among political actors for new solutions to old dilemmas'.

Nevertheless, one can identify the creation of a 'policy paradigm' (Hall, 1993) at European level which privileges some recipes from the menu of choice at the expense of others. This paradigm, closely linked to the priorities of the European Employment Strategy, encourages a trend from welfare to workfare. In the former, social citizenship provided protections and entitlements as a right; in the latter, the emphasis is on the obligations of those receiving benefits. To retain (full) eligibility for support, the unemployed and non-employed must demonstrate their readiness to accept employment and if necessary to enhance their own employability. According to Handler's comparative study (2004), the assessment of whether claimants satisfy these criteria re-establishes the nineteenth-century division between 'deserving' and 'undeserving' poor. The overburdened administrative agencies charged with applying the workfare rules routinely stereotype claimants, concentrate their job-finding efforts on those most likely to obtain employment, and penalise those they judge unsuitable. The result is actually to reinforce the social exclusion of the most vulnerable, 'shift[ing] the burden of adjustment onto the weakest and most defenceless' (TUAC, 1995: 19).

This means that the now fashionable concept of 'activation' is somewhat problematic. The notion of 'active labour market policy', pioneered in the Swedish industrial relations model half a century ago, involved a combination of income maintenance for those unemployed and structured measures to find new employment. The same formula underlies the Danish 'golden triangle'. 'Active' measures were clearly preferable to the essentially 'passive' systems in many Europe countries which paid unemployment benefits without significantly facilitating re-entry to work. But in its current guise, 'activation' is often more notable for reducing the level and duration of unemployment benefit, and imposing more stringent eligibility criteria, than for creating new job opportunities – and in particular the 'better jobs' proclaimed at Lisbon in March 2000 (which in any case would imply a demand-side dimension absent in current labour market policies). It is significant that recent initiatives in Denmark have involved the 'roll-back' of unemployment benefits, thus undermining one base of the 'golden triangle' balancing flexibility against security.

THE AMBIGUITIES OF MODERNISATION

'This status quo is not an option. Unless we modernise our systems we will not be able to defend our values, and we will not be able to project a European approach to this globalised world,' the President of the European Commission informed the European Parliament in 2005 (<http://news.bbc.co.uk/2/hi/europe/4359684.stm>). A year later he reiterated that 'the question today is what kind of Social Europe, a truly Global Europe needs. We need a modern social vision to accompany our drive for open markets' (Barroso, 2006). The Lisbon Council had previously declared the need to develop 'an active and dynamic welfare state', and the notion of modernisation recurs in the EU publications of the past decade, with the recent Green Paper on labour law embracing the same discourse. Who, except an unreconstructed conservative, can object to modernisation? The problem, however, is that the rhetoric of modernisation is often used to mask essentially neoliberal restructuring: serving as a cover for retrenchment, privatisation, marketisation and the 'new public management'.

Marquand (2004: 61-2) has eloquently exposed the tendentiousness of appeals to modernisation, which insist that 'the world is new..., modernity is unproblematic and the path to the future is linear.... There is only one future. The choices it poses are technical, not moral or political.' This, he retorts, is an absurdity. 'Modernity has many faces. Which is more modern? GM food or organic farming? Nuclear power or wind power? Motorways or bicycle lanes? A deregulated labour market or a 35-hour week...? Only half-concealed by the teleology of modernisation is the assumption that the agenda of the dominant players in the global marketplace is, by definition, modern and that the only motive for seeking an alternative is fear of change.'

Indeed, systems of social protection need to change. In many respects, the institutions and principles designed a century or more ago, and consolidated in the process of post-1945 reconstruction, are not ones which progressive trade unionists today should wish to defend. First, all traditional welfare states – and also systems of labour law – were oriented to the 'male breadwinner' employee model; women were treated as dependants, as secondary citizens. Such gender biases have been partially remedied but not wholly eliminated (Annesley, 2003; Lewis, 1992).

Second, where welfare entitlements are occupation- and employment-based, there is an additional gender bias because of the discontinuities typical of female careers in most European countries. Such systems are often more generally unsuited (as Supiot argued) to the increasingly fluid work circumstances of both sexes today. And as the Green Paper correctly identified, the growth of forms of depen-

dent work without a clear-cut employment status means that the effectiveness of traditional legal protections for employees is weakening. The legal vacuum needs to be filled (and though the Green Paper equivocates on this issue, spurious forms of self-employment need to be combated). Supiot poses the matter eloquently: what is required is 'a form of solidarity that would ensure individual and collective security in the face of contingencies that can arise at any time anywhere, because of the inescapable increase in insecurity' (1999: 44).

Third, as Supiot also argued, systems of labour law (and welfare states) are based on a Fordist model of the 'normal' employment relationship. This employment model, Supiot notes, involved a trade-off whereby the worker accepted subordination to managerial authority and hence the employer's right to define the job, but in exchange for relative security of pay and status. The employer gained a normally loyal and predictable workforce, but at the cost of obstacles to discarding unwanted workers in times of difficulty or when more profitable options appeared. This reciprocity disappears in the risk society of modern industrial relations (Beck, 1986). The demands on workers multiply – they are increasingly held accountable for outcomes which they lack the time and resources to control – while their security diminishes. Yet a return to the Fordist trade-off is as undesirable as it is impossible. The challenge is to restructure systems of social protection so as to escape both insecurity and subordination.

This links to a fourth problem: many welfare states involved in effect the socialisation of charity, with beneficiaries the passive recipients of what a paternalistic state bestowed. All too often the operation of the system was rigid and bureaucratic, and often also inefficient. The discourse of choice, of the recipient of public services (health care, for example) as sovereign consumer, can be inherently appealing given the altered composition, needs and aspirations of working people today.

Finally, even in the absence of the pressures of neoliberalism and the mantra of competitiveness, there would be hard choices for the future of social protection. The potential for expenditure is virtually unlimited; the revenue base is bounded, particularly given the constraints of electoral politics. The ideologues of marketisation have not *invented* the problem of the sustainability of traditional welfare regimes; what is objectionable is their solution, which involves a re-commodification of the status of labour and of social existence more broadly. What is required is an alternative conception of modernisation which remains true to the principles of social solidarity. Though I do not endorse all their prescriptions, I approve the basic argument of Ferrera et al. (2001: 164): 'the core principles of the European social model

can be preserved and in many respects enhanced' if appropriate measures of 're-calibration' are adopted.

Above all, it is for trade unions to define an alternative model for European integration. To be aspirational, it is often necessary to be adversarial. Decent work and neoliberal capitalism simply do not mix.

STRATEGIC ISSUES FOR TRADE UNIONS

I end with some brief thoughts on trade union responses to the growing threats to the decommodification of labour, which most observers thought had been firmly consolidated by the social settlements of half a century ago.

'What is the union future under the new capitalism?' the ETUC General Secretary asked recently (Monks, 2006). 'We may not have always liked it but we knew where we were with the Ford Motor Company. Goldman Sachs by contrast is a foreign land and hedge funds are in a different universe.' The increasingly unrestrained pursuit of short-term financial gain, the enrichment of the already super-rich, entails 'a yet further disintegration of the nexus between worker and employer'. His conclusion is that 'within this new, overmighty capitalism... we have to fight the battle all the time'.

There used to be a common phrase for this battle, within the old capitalism which had many family resemblances to the new: class struggle. And I am old-fashioned enough to think that trade unions should not abandon the whole concept of class struggle until capitalists abandon its *practice*; and in many respects capitalists today are more ruthless class warriors than their predecessors.

Dore (2003: 32), a writer not given to over-dramatisation or leftist rhetoric, has described the attack at national level on established employment protections as the outcome of 'not only flexibility/efficiency objectives but also the political objective of breaking the power of the trade unions and their ability to influence the electorate'. In his assessment, 'politicians who responded with the legislation demanded by the powerful managerial class, were not just concerned with creating the conditions for national competitiveness. They were also engaged in class struggle'. Class struggle is a good description of the Washington consensus, and it is equally fitting as a characterisation of its current enthusiasts in Brussels. How far should the class warriors of neoliberalism be regarded as 'social partners'?

Trade union action at European level has always involved a tension between a 'logic of membership' and a 'logic of influence' (Dølvik, 1997; Traxler and Schmitter,

1995). Indeed trade unionism at any level involves a delicate interaction between the tasks of expressing the views and aspirations of those represented, and adapting the form and content of their representation to the preferences of the counterparts in negotiation. But at supranational level, simply because the distance of representatives from the membership is greater, and the resources available are often more limited than at national level, the logic of influence typically acquires greater force.

This logic can easily push unions into a mode of 'labour diplomacy' (Hyman, 2005b) which distances them from their constituencies and strengthens their dependence on acceptance by their interlocutors. A few years ago, Ramsay (1997: 528) wrote that 'ETUC efforts are focused almost entirely in the EU lobby circuit': its limited resources have long been substantially concentrated on engagement with the Brussels institutions. Yet with too one-sided an engagement with the Brussels machine, unions can succumb to an elitist embrace. 'The seductive appeal of the social partnership rhetoric has been instrumental in bolstering legitimacy and support around union claims for recognition and influence in the EU polity'; but with the risk 'that the ETUC representatives might become co-opted by the EU institutions' (Dølvik and Visser, 2001: 32).

This risk was arguably worth taking in the (rather brief) period when the dominant drift of EU policy seemed biased in favour of stronger social regulation. Today the environment is manifestly more hostile: far from credibly pursuing a stronger Social Europe, unions today are struggling to defend the achievements of previous decades. The logic of influence can retain little effect unless trade unionism can reconnect more effectively with the logic of membership. In the past, unions' European activities have been largely delegated to European specialists; given the widespread Euroscepticism among the rank and file, the implicit maxim has often been 'not in front of the children'. This was always a mistake, and today is manifestly so. For unions to regain serious influence within the EU policy-making process, they have to engage the membership with a European project which is defined in distinctively trade union terms. And this means that they need to challenge more unambiguously those policy trends which are hostile to workers' interests, and seek more active means of mobilising opposition. Arguably indeed, the struggle over Bolkestein marked a paradigm shift away from mainstream union absorption in the elitist mode of EU governance.

To succeed in the contentious politics of 'flexicurity' and welfare 'modernisation', trade unions have to win back their social legitimacy. As Flanders wrote four decades ago (1970: 15), 'trade unions have always had two faces, sword of justice and vest-

ed interest'. Today, unions are too often seen as representing the vested interest of those who are already relatively secure in the labour market, and have relatively good wages and working conditions; those who are in most cases winners or at least not losers in the process of economic restructuring. They have also very often become set in a time-honoured bureaucratic routine managed through time-honoured bureaucratic language, distancing them from those they seek to recruit and represent. Unions' image problem is one reason for the frighteningly low levels of membership among younger workers, who are particularly likely to be labour market 'outsiders'.

Unions were perceived as a sword of justice when they articulated a vision of a better society. Despite the mutual antagonisms between social-democratic, christian and communist unionisms, all had in common a conviction that trade unions were a force to defend the weak and vulnerable and to build a society which would no longer be divided between winners and losers. The rhetoric may have survived, but the conviction has largely disappeared – making unity across former ideological divisions easier to achieve, but undermining the sense of labour as a movement with a mission.

'Organizational strength without ideology is form without content,' said the great strategist of Swedish trade unionism Rudolf Meidner (quoted in Evatt Foundation, 1995). Today the material difficulties confronting unions are compounded by a 'loss of [their] ideological justification' (Piore, 1994: 514). Can the ideological vacuum be filled? Contemporary societies are increasingly fragmented, have lost many of the traditional foundations of cohesion. There is a growing divide between those who have done well out of the get-rich-quick opportunities of the new economy, those still doing reasonably but feeling increasingly insecure, and those who are socially marginalised and alienated. This can result in growing social violence and support for repressive and authoritarian politics. A major task – and also opportunity – for trade unions is to help redefine social solidarity, to constitute a force for cohesion based on social justice. As well as influencing the material economy, unions' mission is to establish a 'moral economy' (Swenson, 1989). And to do so, in the words of the former general secretary of the ETUC, 'what we need are creative utopias that set new developments in motion' (Gabaglio, 1995: 111).

Trade unions are key civil society actors in a problematic position. It is quite common to pose a distinction between unions on the one side and NGOs on the other. Yet unions themselves are (or should be) non-governmental organisations! They have a key role to perform in representing the less advantaged and less privileged, but they do not have a monopoly. This is something trade unions have often found

difficult to accept; too rarely have they built genuine alliances with other social organisations and social movements – ones which are often far more attractive to the younger generation than the unions themselves. This is one of the crucial challenges for the labour movement in the twenty-first century: weakened materially and ideologically, trade unions alone lack the capacity effectively to defend the European social model(s).

The welfare state – and more general modes of decommodification – was only partially an achievement of the labour movement, and nowhere did it fully express progressive ideals; to be defended, it must be redefined and re-invented. Because unions are stronger among the ‘producers’ of the welfare state – public sector employees – than among the generality of ‘consumers’, defending actually existing welfare systems can easily be depicted as protecting vested interests. They are also typically organisations of older workers, an important consideration when a new inter-generational contract is needed.

‘The welfare state implies a social contract with the citizenry’ (Esping-Andersen, 2002: 7). Trade unions are at one and the same time mass organisations of workers and of citizens; they can shape the terms of this contract. Yet in recent years they have been marginalised in the battle of ideas which has bound the construction of an economically integrated Europe to the deconstruction of many national foundations of decommodification. Much of the rhetoric which has been adopted in the cause of neoliberal ‘reform’ – modernisation, choice, activation, flexibility – is inherently appealing. Unions need to offer their own distinctive meanings for these ambiguous concepts as TUAC attempted a decade ago with the notion of ‘positive adaptability’ (1995).

A century ago, in their classic analysis of trade union functions, Sidney and Beatrice Webb (1897) saw unions’ central purpose as establishing a ‘common rule’ governing the employment conditions of all members of each employee group. Mass labour movements often embraced this principle in a form more rigid than the Webbs themselves envisaged: a ‘one-size-fits-all’ model of uniformity. Paradoxically, there was often an elective affinity between trade union rule-making and the standardisation imposed on workers by ‘Fordist’ employers. While employers insisted that workers were ‘not paid to think’, unions were suspicious of the notion that individual workers should exercise choice over their employment conditions. Understandably so, since the whole basis of trade unionism was that individual bargaining between worker and employer would be on management’s terms, and that the conditions of all employees could be advanced only by eliminating the scope for each to bargain separately. Yet the principle of standardisation failed to recog-

nise any differentiation of issues. Unions correctly identified some essential common rules – minimum rates of pay, maximum hours of work – which were essential if workers were not to engage in a competitive undercutting of conditions. On some issues, however, individual choice need not necessarily undermine general safeguards; but traditional union approaches to collective bargaining have been sceptical at best towards ideas of flexible regulation which allow scope for personal preferences.

It is right to be suspicious of the idea of ‘soft law’ (or the more recent enthusiasm for the ‘open method of coordination’), notions which have become central to Eurospeak: their implication is often a process of regulation which does not genuinely regulate. But consider some specific questions for contemporary trade unionism. For example, should overtime working be prohibited altogether; rewarded by extra payments; or compensated by time off at the individual’s own discretion? Some recent agreements in Denmark, for example, seem to have recognised the fact that union members have differing preferences by offering a menu of options. Should part-time employment be resisted (until recently the reflex union response in most of Europe), or should there be scope for variable hours of work – if employees themselves can agree or refuse, and can obtain the same employment rights as full-time employees? If the ‘normal’ employment relationship of the twentieth century is increasingly eclipsed, and ‘atypical’ forms are increasingly typical, unions can either continue to fight battles which are probably already lost, or can mobilise for effective, flexible regulation of the current employment jungle. This matches another of Supiot’s arguments: that to survive and thrive, trade unions must increasingly change their function from decision-makers to coordinators, so that for example greater individualisation of working time occurs only within a framework of collective negotiation

More broadly, unions need to reconsider the relationship between work and life. The rather weak and diluted term ‘work-life balance’ typically denotes policies about childcare and parental leave. Such matters are indeed important, but the impact of work on our lives has far broader ramifications; more crucially, the very idea of work-life balance implies that work and life are separate spheres. Yet only if labour is a commodity can this be the case. Similarly, ‘decent work’ is a worthy slogan, but it is a sign of how far we have regressed that international trade unionism has needed to make this its strategic centrepiece. To build an effective counterforce in the battle of ideas, to inspire and attract the idealistic, unions need a more ambitious programme: regaining a role in fighting for a decent life, a decent society, a decent Europe and a decent world.

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EUROPEAN WAGE POLICY LAISSEZ FAIRE OR COORDINATION?

Gustav Horn

I. INTRODUCTORY REMARKS

Europe is still incomplete. The hopes associated with the EU, both politically and economically, have been frustrated so far. This has been demonstrated by the negative outcome of the referendums on the EU Constitution in France and the Netherlands. In spite of the fact that, in historical terms, the EU is still fairly young, it already appears to be astonishingly encrusted and little inspiring for the time being.

This dullness is like a grey veil hanging over one of the most ambitious projects of the EU, the single monetary area, which does not function in the expected way either. Instead of the expected continuous growth, values have remained rather mediocre visibly staying behind those of the other large single market, the USA. Correspondingly modest is therefore the employment dynamism falling short of that of the USA as well. However, at a second glance at these figures, it turns out all too clearly that, although this holds true for the euro area as a whole, partly grave differences exist between individual Member States of the EU. Whilst Spain and Ireland have experienced exorbitantly high rates of growth for a prolonged period of time, which has lifted the level of their prosperity almost to the European average and even beyond in the Irish case, growth has been noticeably weak in other Member States. Mention must be made in this context especially of Germany, Italy and the Netherlands, i.e. two of the big euro area countries. This finding gives rise to the question whether it is not precisely this divergency which represents one of the crucial economic problems facing the euro area and what role economic policy plays in this context.

At first sight, the answer to this question must take the load off monetary policy. Monetary policy is of aggregate nature and can, to that extent, neither cause nor fight such divergences. At a second glance, however, monetary problems must clearly be expected to arise as well, as demonstrated later. On the other hand, the

interest focuses on national fiscal policies distinctly targeted in different ways in the individual countries as well as the highly heterogeneous wage policies, in particular

The following explanations¹ begin by showing wage developments in the Member States of the monetary union from its inception. This is followed by an analysis of whether such wage developments are able to satisfy the needs of the single monetary area. The next step is to develop on the basis of these deliberations a concept for a European wage policy.

2. WAGES IN THE EURO AREA

To begin with, the term ‚wages’ is to be more precisely defined as labour costs. The term ‚labour costs’ one-sidedly stresses the cost character of wages. The weight of labour costs as a component of international competitiveness is often felt to be heavier than that of labour costs as a component of income and is thus considered to be negative for employment. However, labour costs/wages always have a dual character. They are both a cost and an income element and, thus, an important factor also influencing supply and demand. Hereafter, wages are therefore understood to be labour costs, since they are relevant for business pricing practices. This is important for the following analysis for two reasons. First, pricing is relevant for the development of inflation and, second, it determines whether or not enterprises are competitive.

Both have implications for economic policy. The task of monetary policy is to ensure price stability, and monetary policy must therefore keep an eye also on the development of labour costs. Second, wage policy is also required to respond in an adequate manner to losses and gains in competitiveness, as will be explained later.

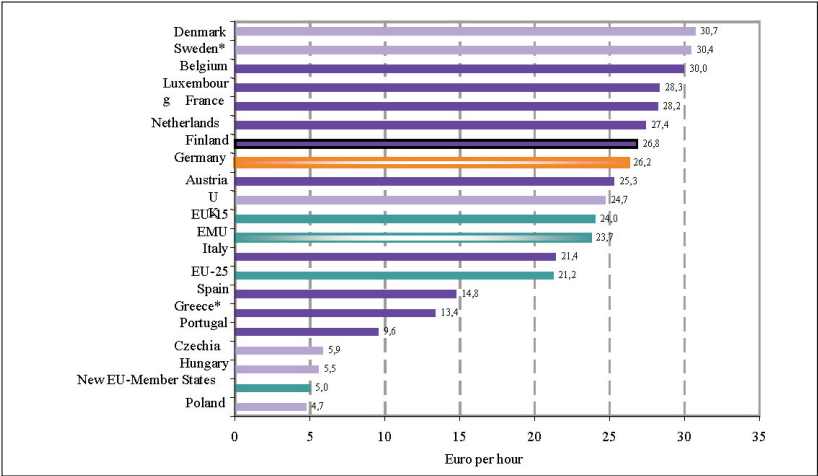
To begin with, the analysis must record total wage costs including social security insurance contributions in a comparable manner for the respective national economy. It has often been observed that just wage rates per hour have been compared and subsequently subjected to nothing more than sectoral comparison. But this is misleading, because for different calculation methods individual Member States may, on the one hand, have differently designed indices that are often not comparable for this reason. For instance, it is often not clear whether and, if so, to

1 Parts of this article are based on DÜTHMANN *et al.* (2006). Labour costs in Germany overestimated hitherto, IMK, No. 11 2006, and on HORN/MÜLHAUPT/RIETZLER (2005): Quo vadis Euroraum, IMK, Report No. 1 2005.

what extent social security contributions are included. Moreover, as a rule, these indices measure just the hourly wages that are paid in industry, which are however then used as indicators for the whole sector of the tradable goods concerned. This is not permissible for two reasons. First, services are internationally traded to a considerable extent at present as well. Second, a sectoral approach disregards cross-sector cost links within the economy. Thus, the wage costs payable in a services sector selling advance services to industry influence, via the prices of such advance services, the costs arising to industry, thereby affecting the sector's competitiveness. Similar results have been ascertained by Deutsche Bundesbank. "[More recent econometric analyses] support the view that the real external contribution based on broadly defined overall economic price and/or cost deflators reflect price-based developments of competitiveness of the German economy more adequately than the concept, widely practised internationally, of unit labour costs in the manufacturing sector.²

The following part includes a comparison of hourly labour costs in the private sector (industry and private services sector) of the most important European countries in 2004. The data has been taken from the labour cost statistics of Eurostat (Figure 1, Report 11). As can be seen from Figure 1, there is a top group of countries

Figure 1, Report 11: Labour Cost of Industry and Private Services 2004



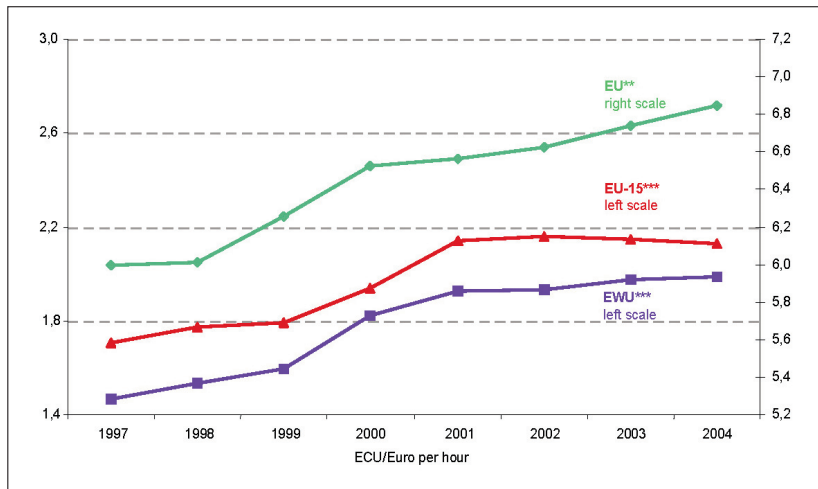
* For Sweden and Greece the numbers relate to 2003. No data for Ireland. Source: Eurostat.

2 Deutsche Bundesbank (1998): Zur Indikatorqualität unterschiedlicher Konzepte des realen Außenwerts der D-Mark. Monthly Report 1998, pp. 41 ff.

(Denmark, Sweden, and Belgium) recording labour costs in excess of €30 per hour. This group is followed by another one comprising six countries led by Luxembourg where the costs are between €25 and €30. This group includes also Germany which, contrary to other calculations, does not rank prominently by European standards at an hourly rate of labour costs of €26.22. Visibly below the European average of €24 are the new Member States at an average rate of €5. The average ascertained for the single monetary union is just under €24. It is remarkable, though not surprising in light of increasing European market integration that hourly labour costs in the EU-15 countries are close together (except for the Member States in Southern Europe).

However, when looking at the trend in labour costs over time, there is one surprising phenomenon. An analysis based on the variation coefficient (Figure 3, Report 11) which measures the distances of the individual countries' labour cost levels from the average EU level and the single monetary union level, respectively,

Figure 3, Report 11: Variation Coefficient¹ of Labour Cost in the EU*



* The variation coefficient is the variance divided by the mean.

** Czechia, Denmark, Germany, Estonia, Greece (GR), Spain, France, Italy, Cyprus, Latvia (LV), Lithuania, Luxembourg, Hungary, Netherlands, Austria (AT), Poland, Portugal, Slovenia (SI), Slovakia, Finland, Sweden (SE), United Kingdom. No data for Ireland, Belgium and Malta.

*** Without Belgium and Ireland. Source: Eurostat, partly own approximation for labour cost per hour for 2003 (AT) and 2004 (GR, LV, SI and SE) and calculations by the IMK.

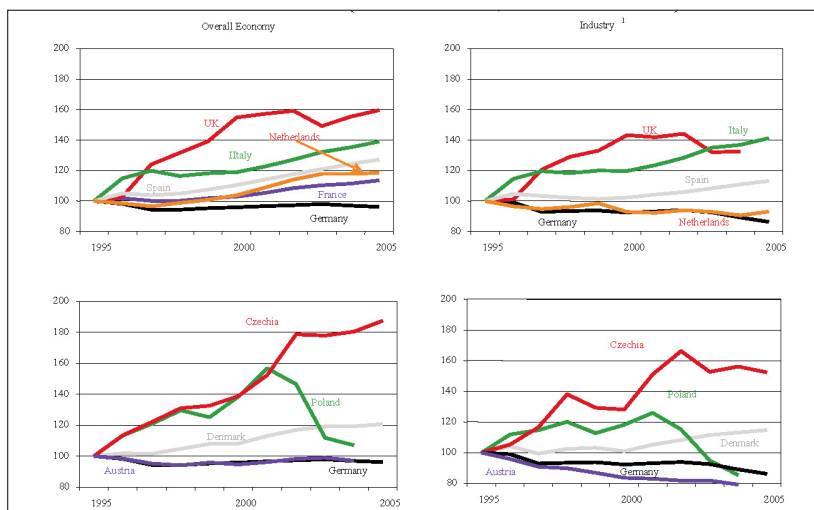
Source: Eurostat, Calculations by the IMK. For GR, LV, SI and SE: approximation for labour cost per hour for 2004. For AT: approximation for 2003.

shows that wage spreads between the European countries have not become smaller since the emergence of the European Monetary Union; the trend has rather been slightly upward. This is all the more so when considering the new Member States in the respective group of countries which may, however, be attributable in part to the effects of exchange rate fluctuations. But this result is a robust one also for the EU-15 countries. This means that there is no convergence of wages in spite of the existence of the monetary union. This contradicts the general thesis which, in the absence of foreign exchange rate fluctuations, postulates such convergence as a follow-up convergence of competitiveness.

However, the level of labour costs is no appropriate yardstick for measuring competitiveness. In addition to the costs of labour, it is also necessary to take into consideration the performance of labour, i. e. its productivity. For instance, in the event of divergent rates of productivity, international competitiveness would only have to be expected to deteriorate, where labour cost increases are not offset by corresponding productivity rises or where trading partners record a relationship between labour costs and productivity that is more favourable by comparison. Or in other words: As long as a country has the benefit of unit labour costs – weighted by trade components and measured in a single currency – that develop more favourably than those of its trading partners, that country will gain in international competitiveness. The answer to whether and to what extent wage cost pressure also causes price pressure depends on the development of productivity as well. There are tendencies towards rising prices only where nominal wage increases are in excess of productivity growth, i. e. where unit labour costs rise as well. However, this will only be a matter of concern where such rises violate the stability objective of the European Central Bank (ECB). This rise should be below, but close to the target of 2 %. This means that an excessively high increase, i. e. one above 2 %, and a too low increase, i. e. one falling visibly short of the 2 % limit, would have to be avoided.

But when looking at unit labour cost developments, there is another surprising phenomenon to be noticed (Figure 13, Report 11). Since 1995, i. e. the period directly preceding the start of the monetary union, extremely heterogeneous developments have been observed. Whilst in the subsequent ten-year period, unit labour costs rose by 60 % in Great Britain, they remained almost stable in the German and the Austrian economies overall and even dropped in industry. Substantial divergencies exist also within the monetary union. For example, in the period under review, unit labour costs expanded by 40 % in Italy and by 30 % in Spain. The same tendencies are to be observed when the period under review begins exactly on the date of the start of the monetary union. Whilst in Germany unit labour costs have

Figure 13, Report 11: Development of Unit Labour Cost in European Comparison Selected Countries (Index: 1995=100, on ECU/Euro-Basis)



1 Manufacturing industry inclusive mining, power and water supply (C, D, E).

Source: Reuters EcoWin (Eurostat); Calculations by the IMK; Value added in Industry for France available since 2000 only. Calculation on unit labour cost on per capita basis since data of hours worked is not available in all cases.

remained almost constant, they have increased by about 20 % in the Italian and in the Spanish economies overall and by about 10 % in the whole euro area.

This means in light of the above considerations: Whilst wage developments in Germany have generated an inflationary impulse of zero, the wages paid in Spain have pushed inflation to a level visibly above the 2 % margin set by the ECB. But, in the monetary area as a whole, this impulse was weaker.

In view of the inflationary developments recorded for the euro area, it would be fair to reach the general conclusion that the development of wages cannot be held responsible for the target of inflation having been partly exceeded. Overall, the development of wages has been in line with the requirements of stability. Higher rates of inflation have primarily been a consequence of oil price shocks. But the situation is different by individual Member States. Both in Spain and in Italy, wage developments have driven inflationary rates to levels above the 2 % target. Both these countries' wage policies may well be held responsible for high rates of inflation. On the other hand, the German wage increases have neither been compatible with the needs of price stability in recent years. If there had been no oil price shocks,

they would have noticeably helped to undercut the stability target. Had it not been for other impulses, the German rate of inflation would have been zero. Germany would thus have been on the edge of deflation, with a good chance of falling over into the abyss. In any event, the stability target has clearly been violated. Besides, the diagnosis that unit labour costs are constant is extremely unusual. There has hardly ever been any such tendency in an industrialised country. As a rule, a more or less strong rise in unit labour costs must always be expected. In any event, the pan-European picture which seems to be rather peaceful, shows for individual countries dangerous cracks originating in different wage policies.

The close ties between unit labour costs and rates of inflation are the origin of yet another consequence. Independently of the rate of inflation in the whole euro area, it is inevitable that so highly divergent wage developments give rise to divergent rates of inflation as well. It can clearly be seen that substantial differences in inflationary rates have existed between individual Member States for quite a considerable period of time already (Table 1, Report 1). These differences do not erratically occur on either side of a mean value, but are systematically distributed on one side of it in the case of specific countries. Clear upward deviations have been observed for Ireland, Greece, Spain, and – until recently – the Netherlands. Downward deviations from the mean value have been uninterruptedly recorded for Germany and for Austria, though the latter's deviations have been distinctly less pronounced. However, for the last three years, Finland has shown a strong inclination to go in the same direction as well, after its rate of inflation had been noticeably up on the European average rate in the preceding years.

Table 1, Report 1: Inflation differences in euro area
Deviation¹⁾ of annual HCPI from the euro area average

	1999-2006	1999	2000	2001	2002	2003	2004	2005	2006
Belgium	-0.1	0.0	0.6	0.1	-0.7	-0.6	-0.3	0.3	0.2
Germany	-0.5	-0.5	-0.7	-0.4	-0.9	-1.0	-0.3	-0.3	-0.4
Greece	1.4	1.0	0.8	1.3	1.7	1.4	0.9	1.3	1.1
Spain	1.1	1.1	1.4	0.5	1.3	1.0	0.8	1.2	1.4
France	-0.3	-0.6	-0.3	-0.6	-0.3	0.1	0.2	-0.3	-0.3
Ireland	1.4	1.3	3.2	1.6	2.6	1.9	0.2	0.0	0.5
Italy	0.4	0.5	0.5	0.0	0.4	0.7	0.1	0.0	0.0
Luxemburg	0.5	-0.1	1.7	0.1	-0.2	0.6	1.1	1.6	0.8
Netherlands	0.5	0.9	0.2	2.8	1.6	0.2	-0.8	-0.7	-0.5
Austria	-0.4	-0.6	-0.1	0.0	-0.6	-0.8	-0.2	-0.1	-0.5
Portugal	1.0	1.0	0.7	2.1	1.4	1.2	0.4	-0.1	0.9
Finland	-0.4	0.2	0.8	0.3	-0.2	-0.8	-2.0	-1.4	-0.9

¹⁾ Percent. Pts.
Source: U.S. Bureau of Labor Statistics.

When comparing rate of inflation differences within the euro area with those recorded for the USA in the period 1999 – 2004, it becomes clear that the latter experienced divergencies that are substantially less persistent. This is true, although the USA – like the euro area – was affected by similar overall economic shocks in the period under review which would have justified expectations of similar internal divergencies. This conclusion suggests that the heterogeneity of inflationary developments in the euro area has been unusually pronounced.

Such divergencies in inflationary rates have implications for the competitiveness of individual Member States. The countries having recorded rates of inflation noticeably above the euro-area average rate over a prolonged period of time have lost in competitiveness; whilst others whose rates of inflation were correspondingly lower have gained in competitiveness. The most striking example is Germany. Whilst Germany's domestic rate of activity was extremely low, its exporting industry has substantially gained in competitiveness compared to the exporting industry of other euro area members. When taking the real exchange rate as an indicator, the competitiveness of German enterprises has increased by rates of between a good 4 % and of just under 9 % depending on the price index concerned (real depreciation). Over a period of ten years, the values would even be just under 10 % and around 15 %. Devaluation rates are lower when the harmonised index of consumer prices (HICP) and export prices are used. But these figures are also subject to price effects caused by rises in import prices so that it must be expected that they have not increased the profits of German enterprises. However, when using – as in the domestic economy – the yardstick of unit labour costs or the GDP deflator, the resultant devaluation has been stronger in real terms. All four indicators show that wages and price formation in the domestic economy have considerably strengthened competitiveness.

Germany's noticeably strengthened competitiveness has left distinct marks on the external contributions of Member States of the euro area. Whilst Germany's external contribution has increased from under 1 % in 1999 to almost 6 % of GDP at present, the values ascertained for Italy and France have visibly declined. Both countries will record a negative external contribution for 2005 after they had still seen surpluses of 2 % and, respectively, 3 % of GDP in 1999. The trends recorded for the smaller countries are similar where surpluses have – with the exception of the Netherlands – gradually vanished and, respectively, deficits are on the increase. These trends give rise to the question whether a monetary union can be stable if the formation of wages is so heterogeneous.

3. WAGES IN A CURRENCY AREA

The occurrence of inflation differentials in a monetary union is in principle neither particularly unusual, nor is it necessarily harmful³. Thus, cyclical differences which arise in a monetary union as a consequence of shocks with asymmetrical effects on different countries may also lead to differing rates of price increases. But as these shocks subside, such divergencies would normally be expected to disappear. Consequently, systematic divergencies should not arise out of this kind of situation.

Permanent divergencies might, however, be caused by the so-called Balassa-Samuelson-effect. This effect is based on diverging productivity growth-rates in the two sectors of an economy – the one which produces internationally tradable goods and the one which produces non-tradable goods. In this situation, the productivity level in the sector of tradable goods is indeed low in comparison with other economies. On the other hand, this sector in contrast to the sector of non-tradable goods, catching up with outside developments, registers high productivity increases, which allows corresponding wage increases. As wage developments in a single national labour market cannot diverge between the two sectors in the long run, the sector of non-tradable goods will also experience accelerated wage increases. Because of the slower progress in productivity, however, these lead to cost-pressure, which in turn leads to high price increases. The result is a relatively high inflation rate. One would be inclined to look for this kind of effect, above all, in those countries, where productivity of tradable goods is clearly below the average of the Euro area. The only quantitatively significant country where this might happen is Spain. On the other hand, Spain does not show an above-average productivity increase, and there is almost no differential in the productivity development between the sectors of tradable goods and non-tradable goods. Results for other countries are not that clear either, and some surveys even do not provide any indications that there is an influence at all.⁴ Anyhow, this effect should become less significant as convergence of productivity levels increases.

Persistent divergencies might also be the result of divergent price-setting behaviour. It is, however, difficult to substantiate, why such behaviour, which would also lead to persistent yield differentials in otherwise identical sectors of the cur-

3 EZB(2003): Inflation differentials in the euro area: Potential causes and policy implications.

4 Lommatzsch, K. and Tober, S. (2004): The Inflation Target of the ECB: Does the Balassa-Samuelson-Effect Matter?, EUI Working Papers, European University Institute, Robert Schumann Centre for Advanced Studies, Working Paper 2004/19.

rency area, should continue in the long term. Providing evidence for such a phenomenon is therefore difficult.

Wage development in individual countries is, however, a very decisive element. If wage formation follows productivity development in the different economies to different degrees, there will be divergent cost-pressure, even if the cyclical situation is identical. If there is a similar price setting behaviour, this will lead to diverging inflation rates in the end. If there are structural differences in the wage formation process, inflationary divergencies will even become persistent and difficult to overcome. For this reason, it is necessary, also from a theoretical point of view, to analyse more closely wages formation in individual countries.

The fact that persistent inflation differentials are unusual for a single currency area is also shown by the above-quoted results for the USA. Apart from the data for the four census-regions, there are corresponding statistics for the metropolitan areas. Even here there are only two cases of persistent inflationary differentials. There is considerable persistence with an upward trend for San Diego. Persistent with a downward trend are the inflation differentials for the Milwaukee-Racine region which, however, is far from having the same economic weight for the USA which Germany has for the euro area. Also, in the San Diego region, house prices increased relatively strongly, which was not the case in the Milwaukee area. In so far, inflation differentials reflect to a noticeable degree the dynamic development in the real estate market. Otherwise, especially in the important regions, parameters are subject to frequent changes, and persistence of inflationary differentials is therefore low.

4. WHAT WILL HAPPEN NEXT?

All considered, it is permissible to conclude that the present development in the euro area is pathological. In the long run, it will jeopardise the stability of the Euro area. For, if inflation divergencies remain unchanged, increasing external imbalances are unavoidable. This, however, is bound to have serious repercussions on individual economies and on the euro area as a whole. Such behaviour endangers overall economic stability of the European single market, just like continuously exceeding the limits set by the productivity rule. Of course, management and labour can not be forced to pursue a stability-adjusted course if the Central Bank no longer disposes of possibilities of imposing sanctions at national level. Spain is then a profiteer with respect to inflation and Germany with respect to depreciation in real terms, which, taken together, is not really a problem from the point of view of ECB. The

only means left is to appeal to common economic sense. As far as Germany is concerned, the wage restraint factor is also due to a situation where the negotiating position of trade unions has been weakened in recent years by legislative measures.

The decisive issue is whether the developments shown here can be allowed to continue. In this respect there are two plausible scenarios which, to begin with, will be described without reactions from economic policy. Both scenarios imply that present trends will not be able to continue in the long run, but rather that, one way or another, new trends will evolve.

The first scenario will be called the stabilisation scenario. This assumes that the gain in competitiveness, uninterrupted so far, will sooner or later lead to a cyclical development in Germany which is markedly above the average of the other members of the Euro area. First indications to that effect emerged in 2006, when overall economic growth was above the average of the euro area for the first time in many years.

The impulses for growth result from considerably higher export increases than in the partner countries, leading for the time being to further increases in the positive external contribution. This is so successful that the dampening effects of wage restraint on internal demand are more than offset. Contributory factors are, on the one hand, the high external demand in the form of exports. On the other hand, high profitability in comparison with the rest of the euro area, which is the effect of wage restraint, stimulates investment activity. This by and by leads to employment creation which, in its turn, revives internal demand by more consumer spending. As a consequence, German unit labour cost as well as prices should rise more steeply than in the rest of the euro area, where wages and, together with that, the corresponding rates of inflation would get under pressure because of declining competitiveness. Due to this appreciation in real terms, German enterprises would become less competitive, and exports by the remaining euro countries would recover in comparison with German exports. Instabilities would thus be overcome.

Apart from this scenario, which forecasts a stable economic situation in the Euro area in the end, there are, however, clear trends which point in the opposite direction. In a destabilisation scenario, German wage restraint in comparison with other countries will continue. Competitiveness of German enterprises will continue to increase. Growth of employment in the export sectors are, however, not sufficient to offset the dampening effects of wage restraint on internal demand. Consequently, the domestic economy in Germany will not pick up. At weak growth and wage restraint, the trends of past years will continue as before. Export losses of the other member states increase and dampen cyclical development, first in the smaller, but

highly export-dependent, countries and later on also in the bigger economies depending largely on their domestic markets. In these countries, wages will now also get under pressure. This again hampers growth in competitiveness for German enterprises and increases the downward pressure on wages. As a result, this launches a depreciation race in real terms, which, different from the depreciation race in nominal terms of past decades, does not lead to inflation, but to deflation. In the end, the euro area will trundle down a kind of Japanese deflation-stagnation path. From this, Germany will suffer most, because in the end all depreciation efforts and the resulting hardships would have been in vain. All this will lead to considerable tensions inside the currency area, which might, in the end, even lead to its disintegration.

Even if a destabilising development is likely, this does not mean that it is unavoidable. Both scenarios were drawn up without making allowance for political reactions, and this is the only way they should be read. That there should be no reaction is, however, unlikely. But how will, and above all should, economic policy react?

5. ECONOMIC POLICY IMPLICATIONS

If stabilising the euro area is the economic policy target, several steps have to be taken to this end. Here, first of all, a distinction should be made between the short and the long-term views. In the short-term view, it is a matter of overcoming the present difficulties which were addressed in the two above scenarios. In the long-term view, it is a matter of making sure, as a matter of principle that the economy of the European area will never again get into such a fragile situation.

In the short term, the scenario which avoids instabilities can only be achieved with support of economic policy measures. For some time, countries like Germany and Austria have to grow more quickly than the average of the euro area, so that labour becomes scarcer and the trade unions are able to enforce higher wage increases than the average increase in the euro area. In this case in the long run, prices in Germany will also rise more steeply than the euro-area average, and Germany and Austria will appreciate in real terms. But in order to get this working at all, the upward trend in these countries will have to be supported by economic policy measures. This applies primarily to national fiscal policy, which, under these circumstances, will have to aim at a more expansive stance. At the same time, however, those countries which are to depreciate in real terms have to practice wage restraint,

so that the upward trend in prices in these countries will fall below the European average. This, too, will not happen automatically. Here economic policy, which, because of the country-specific character of the problem, in this case falls into the realm of financial policy, would have to take a restrictive stance. National fiscal policy would thus practically assume the role of former monetary policy and would fill an empty space in a currency area which is not yet homogenous. In recent years, in view of financial constraints, all countries were rather inclined to take a restrictive stance which, however, was not determined enough in countries with expanding economic activity. If a depreciation race in real terms is to be avoided, and should the turnaround in wage policy fail, a correction of course with the support of fiscal policy measures is called for.

So far, these European aspects are at best a subject for debate, but they have not yet had any impact on practical policy. In addition, there is another serious problem. If the accelerated price increases in Germany and Austria are not compensated fully by correspondingly restrained upward trends in prices in the other countries, there is a danger that the inflation target of ECB is exceeded and that ECB begins to put on the breaks, which would place a heavy burden on the euro area as a whole. Avoiding this danger is difficult, however, because in order to achieve this, inflationary rates in the countries in question would have to be very low, bordering on deflation if this goal is to be reached. This too endangers dynamic economic development to a high degree. Basically, the outlined strategy would mean that the infringements of stability targets of the past are being corrected in individual countries by symmetrical infringements in the present. The deflation risk for individual countries in all this cannot be denied. If corrections on the front of wages and fiscal policies fail, monetary policy is the last resort. But monetary policy can only become active if the indications of a depreciation race in real terms towards deflation can be substantiated. Should this happen, monetary policy will have to act quickly as well as with determination and drastically reduce interest rates. In this, the available downward leeway is, however, limited by interest rates which are already at a low level. Waiting for monetary policy to act is thus a risky economic strategy.

One possibility of mitigating the risk would be that ECB would be willing to permit to exceed the inflation target on a temporary basis for the time it takes to make the necessary adjustments. In order to underline the credibility of a policy of temporary tolerance, this moratorium could be linked to the condition of developing a concept for wages development in the euro area which would be sustainable in the long term.

It is essential to focus more on the European perspective. The primary problem is wage policy. In so far as there are any targeted wages policies in individual countries at all, they are domestic policies that do not pay attention to the European perspective. For all practical purposes, there is thus no European wage policy. Consequently, there is no coordination either between the ECB price stability target on the one hand and the development of wages in individual countries on the other. In the USA, the signals of the American Fed concerning factual and expected market developments are taken up relatively quickly in the decentralised process of determining wages. Regional considerations hardly play any role. In contrast, in the euro area, the determination of wages has a regional focus, while European aspects are hardly considered at all. This also reflects a situation where economic development is still considered under national angles. Present imbalances can only be explained by the fact that framework conditions are not adjusted to monetary union and thus to a single market. It is this environment which also enables countries to profiteer from other countries. According to this attitude, safeguarding stability is always the task of wages formation in other countries, never ones' own. This is exactly what many countries have already done. Only because Germany and Austria have so far practised wage restraint in such a determined way, other countries have been able to exceed the target without this leading to Europe-wide problems with respect to price stability.

In order to solve these problems, there will first have to be a change of course in the wage policy of individual countries. This reaction is the most appropriate one as it tackles the core of the problem – the wage policy divergencies in individual member states. Wage policy, in general, should orient itself by the medium-term national productivity increases, taking into account an inflation rate of just under to 2% of nominal wages. As lead figure for the medium-term orientation of the production path could serve a trend figure that would come under revision on an annual basis. If the productivity figure in retrospective determines the core of wage appreciation it is assured that the development of wages will not drift away from economic performance. Moreover, this policy leads to distribution neutrality, as profits and wages incomes will then, in the long term, increase at the same pace. In addition, wages will, however, have to take account of the price stability target of just under 2 %. Together with productivity conditions, this calls for an increase in unit labour costs of just under to 2 %. At a productivity trend of around 2 % in the euro area as a whole, this would mean nominal wage increases of an order of 4 % for the euro area. In individual countries, however, increases would then have to be guided by respective national productivity trends. For Germany, with productivity gains

of some 11/2 %, this would imply nominal wage increases of 3½ %. This would mean much higher wage increases than in recent years. The reason being that in the past ten years, productivity orientation had been more or less abandoned, in that the development of wages mostly lagged far behind target, and wage restraint, which was some times extreme, was practically the only policy measure. In Spain, where productivity does not increase much, wages would not be allowed to increase by more than just 2%. This would thus mean a marked change in Spanish wage policy. Here wage increases would have to be much more modest than before, because so far it has been guided too much by present inflationary rates instead of the ECB target rate of inflation and too little by extremely weak productivity development. These considerations demonstrate already that it is not a matter of achieving equal wage increases for all member states, but rather of following the same wage rule, which protects national as well as European stability. The European element in this rule is just the inflation target. The productivity paths have, so far, followed national trends and require a nationally differentiated wages path.

The outlined wage rule here more or less corresponds to the wage rules contained in the trade unions' efforts to coordinate EU wage policy. However, when looking at results, these endeavours have not been particularly successful so far. The same applies to the efforts to bring about a macro-economic dialogue, in which all sides involved exchange information and thus facilitate informal coordination in principle. Present participants are the EU Commission, ECOFIN, ECB, the European association of entrepreneurs and the European Trade Union Confederation. Even if this initiative is generally to be welcomed, it has been shown that in the past this instrument, which is basically useful, was not been sufficiently used. What is thus called for is more accountability. In order to achieve this, it would be useful if the EU Commission monitored developments of wages and prices in individual countries and assessed them according to European criteria with the same intensity, with which it monitors public budgets. This could then form the basis for recommendations to the macroeconomic dialogue. The macroeconomic dialogue could then take decisions on adequate macroeconomic policy adjustment, the implementation of which would then, of course, be the task of participating institutions. In this institutional framework, potential imbalances and instabilities could be discussed, and decisions could be taken about how to avoid them.

It is however to be expected that the European single market will integrate more strongly over time. This means in particular, that increases in productivity will balance each other out. In this case, national considerations would and should increasingly recede to the background. Wages formation will then take place across

national borders in the different sectors of the economy at European level. Even then there is still need of coordination between wage, monetary and fiscal policies. But this can then be discussed at European level.

If the outlined economic policy options are disregarded and if imbalances widen, one can only hope for one's good fortune. This would mean that the international economic upswing turns out to be strong enough to stimulate domestic demand in Germany via an export boom and thus to initiate a stabilisation scenario. In 2006, Germany did have this good fortune indeed. The German Government trusts that the good luck it has will hold. This is tantamount to confessing that economic policy in the euro area itself is not strong enough at present to see to overall economic stability. Against this background the future of the euro area has to be viewed with scepticism. Europe will retain its grey veil as long as an overall economic policy for Europe is still missing.

THE EUROPEAN CENTRAL BANK, MACROECONOMIC POLICY FORMATION AND SOCIAL DIALOGUE

Kurt Hübner

Given the fact that the common currency in Europe was created mainly by political desires and not so much by economic needs, it came as no real surprise that the launch of the Euro was accompanied by a host of institutional innovations to accommodate political interests of players involved. The financial architecture of the Euro, therefore, is a complex structure consisting of many elements where the European Central Bank (ECB) acts as the hub but is by far not the only institution that matters. The European Council created at its meeting in Cologne in 1999 the Macroeconomic Dialog (MD) as a complementary procedure of coordination where representatives of the Council, the Commission, the ECB and of trade unions and employer associations discuss the macroeconomic conditions of the Euro area. It is the goal of this endeavor to find a way to reconcile economic growth with low inflation and increase in employment. The topic of coordination came up due to the insights of those market economies in Europe that belong to the group with relatively centralized wage bargaining regimes. In those regimes the two main actors of the labor markets, namely trade unions and employer's associations, can read very well the signals send from national central banks on the one side (monetary policy) and from the governments (fiscal policy) on the other side and include those signals in their own labor market actions. The mutual understanding of shared policy stances has supported an indirect structure of coordination that made punishment actions on the side of the central banks to an exemption. Sustaining economic growth without generating wage inflation and/or diminishing employment is the rationale for coordination and even cooperation between the actors. The launch of the Euro, so the argument, destroys such arrangements for at least two reasons. First, the common currency ends the practices of national monetary policies. Interest rates are set for the overall Euro area and not differentiated for regions inside this area. Second, competency and sovereignty of monetary policies are shifted from the level of national central banks to the newly founded ECB. Both changes undermine fun-

damentally any coordination mechanisms based on nationally defined economies. The concept of a macroeconomic dialog on the level of the Euro area reflects the recognition of such a coordination problem and tries to transfer the national experience onto the level of the Euro area.

The genuine political reason for the installation of the MD can be seen in different, even in some cases mutually opposing national views of the role of independence of the ECB. As the ECB has been structured as a strong version of the Deutsche Bundesbank, the fear arose, in particular on the French side, that the new institution would become in practice a Ueber-Bundesbank and punish national actors with restrictive interest rate signals in order to accelerate social learning. The EcoFin¹ as well as the MD were seen as counterbalancing forces.

This paper will not directly address the MD. Instead, I would like to go beyond an analysis of this coordination mechanism by discussing the strategies and actions of the main player of this coordination mechanism, namely the ECB. The MD is a highly unbalanced mechanism, where some players have more power than others. Even so the ECB is the most powerful organization in this game, it is also true that it is not in total control of the outcomes of the game. I will discuss the policy stance of the ECB since the launch of the Euro regarding its monetary philosophy, its interest rate policy, and its exchange rate policies. As will be shown, the ECB acted in all those areas in rather unbalances and often in unclear manners and therefore send out mixed messages to the other players. As a result, the MD is a flawed exercise of coordination.

POLICY IMPLICATIONS OF THE EMU

The Economic and Monetary Union achieved by January 1999 has a history that can be dated back to the late 1960s when at the Hague Summit of Heads of State and Government it was decided to turn the considerations about an economic and monetary union into a explicit goal of the community. The so-called Werner Report from October 1970 laid out a three-stage plan to make this to reality. For internal as well as external reasons this plan never materialized and it needed until 1990 when the Commission published its *One Money, One Market* study on the costs and benefits

1 Ecofin is the acronym for the Economic and Financial Affairs Council and is composed of the Economics and Finance Ministers of the member states of the EU. When the Ecofin analyzes documents related to the EMU, representatives of member states whose currency is outside the Euro zone do not take part in the voting procedure.

of a common currency. It is fair to say that it were the events in the political sphere that pushed this plan on top of the agenda. The dissolution of the Soviet Union and the rapid process of German Unification were the driving forces. What started years back as an economic plan turned into a political rally that overturned critical objections. The launch of the Euro was accompanied by many debates, not only by the public at large but also between scholars. One of the most outspoken attacks happened in Germany where under the leadership of Renate Ohr from the University of Goettingen the vast majority of academic economists argued that the Euro and its financial architecture would lead to a deep inflationary situation as the inflation-prone members of the newly created Euro Zone will exercise their influence and drag stability-oriented economies like Germany into the area of weak money. The 'stealth adoption' (Wyplosz) of the Stability and Growth Pact (SGP), mainly due to the political pressure by the representatives of Germany, reflects those – analytically – unfounded concerns and added to the institutional flaws of the Euro project by injecting a heavy dose of inflexibility to the system. Others were debating whether the Euro area could be characterized as an 'Optimum Currency Area' and what the implications are in case the Euro would be introduced despite the violation of the benchmark criteria of this approach (Feldstein 2000).

Another debate focused on the institutional dimension of the Euro project. A common currency abolishes by definition national monetary policies and puts one and only one central bank in charge of a unified interest rate policy for the whole area. The creation of the one-size-fits-all-problem is the automatic outcome of any such change. The problem was aggravated by the very ambitious interpretation of price stability on the side of the ECB's Governing Council that has announced a quantitative definition of price stability: "Price stability is defined as a year-on-year increase in the Harmonised Index of Consumer Prices (HICP) for the euro area of below 2%." For the medium term, the acceptable inflation rate was set close to 2 % (ECB 2007). Even though the inflation hawks in politics and academia welcomed this interpretation, the monetary and inflation rate policy of the ECB was under attack since the inception of the ECB. Announced as early as October 1998, the monetary strategy consists of two pillars: Pillar one uses reference values for the growth rate of a broad monetary aggregate (M3) for monitoring inflation; pillar two is a more broadly based assessment of the outlook for future price developments. The problem with this monetary approach is twofold. First, all econometric empirical studies show that there is no relationship between the growth rate of M3 and the interest rate decision taken by the Governing Council of the Eurosystem. Second, the pillars chosen are not complementary but contradict each other in practical

terms. The result is that the public at large as well as the potential partners of co-ordination never knows what the ECB wants to say when she talks (Gerlach 2004).

The common currency not only had far-reaching implications for monetary policy but also for fiscal policy. The Stability and Growth Pact gave the formally independent fiscal policies of the member states a straight jacket by introducing firm limits for budget deficits with the result of shrinking room for discretionary policies. Like the approach towards monetary policy, the SGP came under heavy attacks from academics as well as from politicians. The SGP can be seen as a simple extension of the so-called Excessive Deficit Procedure as it was practiced in the Maastricht Treaty. The extension was seen as necessary to win the trust of the global financial markets and to make sure that the efforts of national governments to fulfill the convergence criteria are not one-time efforts. Avoiding the risks of free rides by national governments and making fiscal discipline to a collective task is a necessary element of any monetary union. However, to restrict primary budget balances in the way the SGP did was based on the false assumption that governments are in control of the budget, in particular of the income side of their budgets.

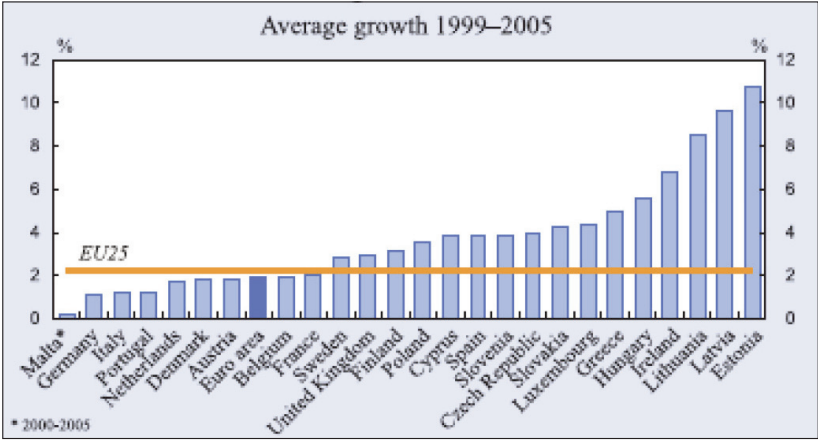
The policy implications for national governments are far-reaching. Instead of having the freedom and leeway to design an efficient and optimum policy-mix, the national economies have to live with one-size-fits-all decisions in the arena of monetary politics and with a ceiling of their expenditures in the arena of fiscal policies. In this perspective, the Euro has introduced rigidity and inflexibility in the national economic policy making procedure that did not exist in national contexts before. As a matter of fact, the institutional architecture of the Euro passed the adjustment costs dominantly to the labor markets making wages, productivity and mobility to the main instruments of adjustment.

The critical objections were not unheard on the side of the ECB and the EU. Even though the ECB kept its two-pillar approach, but the Governing Council used the evaluation of its monetary policy strategy to reduce the role of the monetary pillar and to upgrade the importance of the 'economic analysis'. This shift gave the ECB some of its lost flexibility back. The changes in the defining rules of the SGP from 2005 were guided by the same consideration: The 3% ceiling of national budgets was retained but the rules to declare a country running an excessive deficit were more relaxed and became more flexible. All those changes were necessary but do not go far enough to deal with the adjustment asymmetries that came with the launch of the Euro.

ECONOMIC PERFORMANCE

The economies of the Euro zone experienced a relative decline in their growth dynamics in the last ten years. Between 1995 and 2004 the annual average growth rate of real GDP increased for the Euro zone by 2.1 per cent whereas the growth rate in the US increased by 3.2 per cent over the same period (SVR 2006, Table 5). Growth was very unevenly distributed in the European bloc. Compared to the 25 member states (period 1999 to 2005), the average rate of real GDP for the Euro area economies was below par.

Graph 1: Economic growth in the EU25



Source: EEAG 2007:34

In particular Germany and Italy had a weak growth performance but also France had a rate only slightly above the average of the EU. Out of the core group of the EU it was Finland and Sweden, Ireland, Spain and Greece that showed far above the average growth rates. If one would take the projections of the original Delors Report as benchmark, the growth performance had to be evaluated as a huge disappointment. Research that tried to measure the direct effects of the Maastricht criteria and of the SGP came to the result of a significant negative contribution to the growth rate of GDP. Castro/Soukiazis (2003), for example, calculate a negative contribution of 0.5 percentage points. Restrictive fiscal policies and tight monetary policies by national central banks in order to achieve the convergence criteria have dampened growth dynamics in the pre-Euro period. The SGP may have extended this negative influence in the period since 1999. It is true, as Wyposz (2006:223) ar-

gues, that we don't know about the growth performance of a Euro area without the Maastricht criteria but the majority of studies tend to the conclusion that the Euro zone would have been better off in terms of growth rates without the rigid Maastricht convergence norms. Compared with the OECD economies at large, the budget improvements due to the Maastricht norms were larger but came with a loss in output (Wyplosz 2006:224f.). However, the differences between both groups were small. This raises the question whether this part of the financial architecture of the Euro was worth at all the fights and debates it generated over the years.

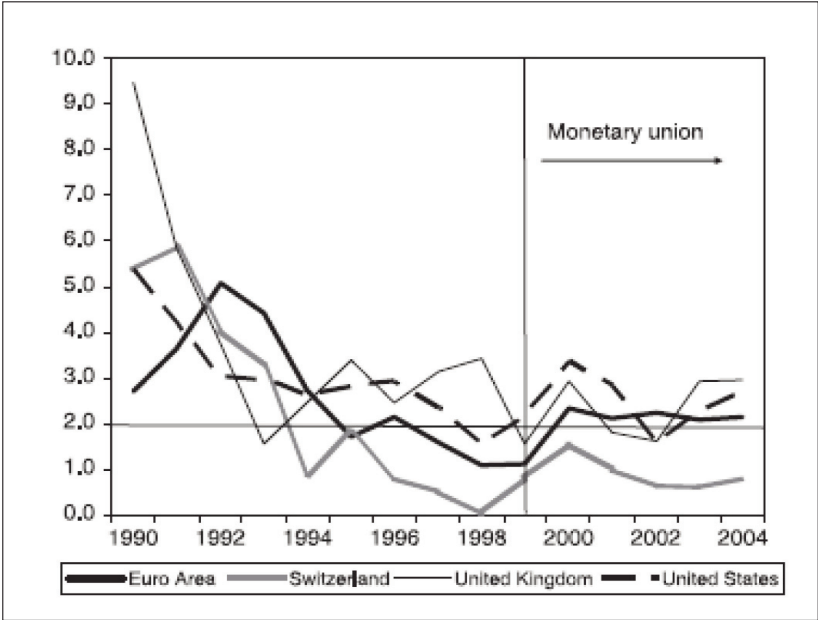
Even though it is true that we can't properly know about an alternative economic growth path, we know that the launch of the Euro has changed the policy mix available drastically. This is in particular the case in the realm of monetary policy making. There is no doubt that the Eurosystem has missed its very ambitious 0-2 percent inflation range (see graph 2). On the other side, the graph also shows that the ECB performed a better job in fighting inflation than for example the Federal Reserve of the US. This is even more remarkable given the fact that the ECB missed all its targets regarding the control of the monetary base aggregate M3. In so far as the ECB controlled the increase in HICP with its second pillar, it generated often confusion on the side of financial markets as the crucial actors on those markets were never sure about the exact meaning of messages the ECB and its representatives send out (Blinder/Goodhart/Hildebrandt/Lipton/Wyplosz 2001). In order to overcome this problem and to gain the trust of the financial markets, the ECB tried hard to represent itself as the ultimate inflation fighter, whereby willingly accepting costs in terms of economic growth and employment. The comparison with the policy outcomes of other central banks is striking: As the case of the Federal Reserve, for example, demonstrates it does not need the rigid and inflexible two-pillar strategy of the ECB to contain inflation. On the contrary, other central banks were successful in fighting inflation and in the same time were accommodative for economic growth.

In the literature, the so-called Taylor rules are used to assess the appropriate interest rate policy regarding inflation rates and output gaps². A more forward-looking version of this approach assumes that a central bank comes up with an interest rate that keeps expected output growth and inflation at their target rates. If the actual short-term interest rate is above this Taylor rate, the interest rate policy is re-

2 The Taylor rules, named after the Stanford based economist John Taylor, established a formal relation between the interest rate of a central bank and the (i) deviation of the actual inflation rate from the target rate and (ii) the difference between actual output and potential output, the so-called output gap. This relationship can help to evaluate whether a central bank was too restrictive or too accommodating in its interest rate policy.

strictive; if the actual rate is below the Taylor rate, the monetary policy is expansionary. Empirical findings indicate that the ECB at large followed a restrictive monetary policy for most of the time (see EEAG 2007:41ff.). Given the reputation problem of the ECB as a new institution and given its strategy to signal the national actors its ambitious stance regarding the acceptable inflation range, this violation is no surprise. However, national actors had to carry the economic cost implied in this approach. The problems of the one-size-fits-all-approach were accentuated on the level of individual economies. It has been shown that if the ECB had to set an interest rate solely for Ireland, this rate would have been 1.2 percentage points higher than the actual ECB rate. The other extreme is given by the German economy where the actual ECB rate was 0.4 percentage points higher than it would have been in case of an interest rate policy solely designed for this economy (EEAG 2007:41). It also has been argued that national central banks would have been more flexible and less rigid in accommodating needs of national economies (Hübner 2002). All those findings nourish the interpretation that the ECB was willingly accepting losses in growth in order to deal with its ambitious inflation concept.

Graph 2: CPI Inflation Rates



Source: Wyplosz 2006

THE CASE OF THE EURO EXCHANGE RATE

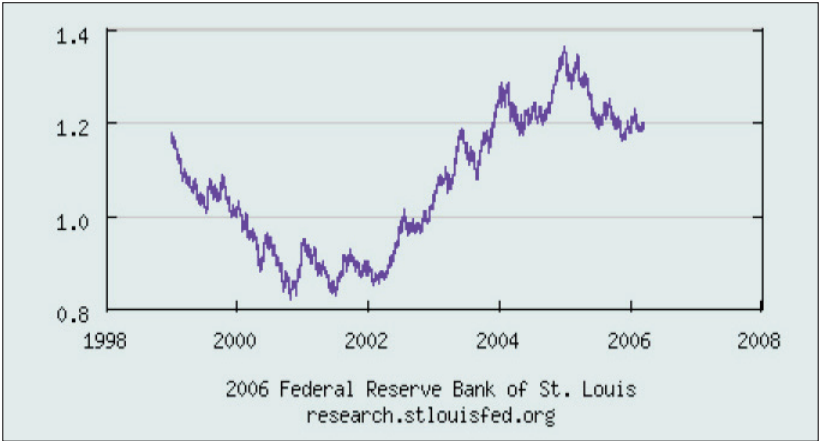
Some observers interpreted the launch of the Euro as a strategy on the side of the EU to establish a competitor to the dominating US-Dollar. Given the economic size of the Euro area, such an aspiration is not without reach. Since 1999 the Euro has been more and more used as international money, even though the US-Dollar still acts as the most important currency in the global economy. The joint currency has so far created deeper and more liquid financial markets in Europe and by this created an unknown level of financial integration in Europe:

“The most immediate step toward financial unification was the swift integration of the euro-area bond market after the introduction of the single currency: yield differentials across member countries fell sharply and the volume of private bond issues grew rapidly. Moreover, the level of competition among financial intermediaries for underwriting and trading activities increased markedly, leading to a reduction in transaction costs, improved market access for higher-risk issuers, and greater financial innovation” (Lane 2006:53). Deeper and more liquid financial markets in combination with the inflation-adverse monetary policy of the ECB were particularly helpful for the previously inflation-prone economies of the southern core who now were in a position to refinance their domestic and international debt to relatively more attractive conditions. One also has to mention that the launch of the Euro ended the costly currency crises Europe suffered periodically (Herr/Hübner 2006). The downside of this development, however, is the dramatic increase of the current account deficits of those economies since the introduction of the Euro. Portugal, to refer to the extreme case, saw a steady deterioration of its external position and run a current account deficit of close to ten percent of its GDP in 2006. The situation is similar for Italy and Spain (SVR 2006). Germany, on the other extreme, piles record surpluses in its external balances from year to year. As this uneven distribution of external surpluses and deficits in the Euro area can be seen as an indication of an still non-optimal currency area, it has to be stressed that the Euro so far has helped to avoid a recurrence of the type of currency crisis that plagued Europe so many times.

The avoidance of currency prices should not mixed with a stable exchange rate. On the contrary, the Euro experienced since its launch a roller coaster that had massive impact on the ‘real’ economy. Since the launch of the Euro, its exchange rate versus the US-Dollar has undergone three distinct phases: A first phase that can be described as a very brief *honeymoon* period where the Euro could keep its relatively high exchange rate level against the US-Dollar. The unexpectedly smooth substi-

tution of national monies with the new currency was appreciated by the financial markets, which were willing to give some credit to the new currency. This period was soon followed by a strong and steady depreciation of the Euro. In terms of price competitiveness the depreciation came definitely to the right time, as the Euro zone economies urgently needed additional stimuli for their growth-retarded economies. The depreciating Euro, one can argue, made a positive contribution to the growth rate of real GDP.

Graph 3: U.S./ Euro Foreign Exchange Rate
(U.S. Dollars to One Euro)



Source: Board of Governors of the Federal Reserve System

In terms of creating a strong reputation for the Euro, the depreciation was seen as a catastrophe by the governments as well as on the side of the ECB. Fearing a free fall of the exchange rate with the consequence of depreciation-inflation spiral, the ECB decided to intervene into the global foreign exchange markets. On September 22, 2000, a coordinated intervention by the ECB, Federal Reserve, Bank of Japan and Bank of England was undertaken. November 3 and 9 of the same year saw one-sided interventions by the ECB. Neither were the official reserves held by the European System of Central Banks seen big enough to impress the foreign exchange markets nor was it helpful that the coordinated interventions were a kind of one-time event and the fight against the depreciation of the Euro was left to the ECB alone. The efforts to talk up the Euro against the US-Dollar did not show positive results. The findings of Jansen/de Haan (2005) show that the verbal intervention efforts did result in an increase in exchange rate volatility but not in improvements of the Euro rate.

Starting in the last quarter of 2001 and taking up speed early in 2002 the Euro rushed into a rally that lifted the exchange rate with the US-Dollar until the end of 2005 above its launch value. Since then we have seen a brief correction in favor of the US-Dollar that came to an end in February of 2006. Unlike in the case of the depreciating Euro, the ECB was so far neither willing to intervene on the markets to bring the Euro back to a more adequate level nor did it try to down talk the Euro. On the contrary, it seems as the ECB would enjoy the rise of the Euro by interpreting it as an indication for the gain in reputation in the global markets. The political asymmetry of the ECB regarding the exchange rate has far-reaching political implications. Unlike the practice in the US, not to mention the highly politics-driven currency strategy of China and Japan, the designers of the ECB were not overly eager to introduce a discretionary exchange rate policy³. The tool kit very much is restricted to its interest rate policy that addresses the highly ambitious inflation target. Yet interest rate policy and exchange rate policy are not totally disconnected. It can be argued that the ECB keenly designed its interest rate policy to avoid a further depreciation of the Euro against the US-Dollar. The same argument does not hold, however, for the period of an appreciating Euro.

As argued before, the ECB not only is equipped with a pretty narrow catalogue of policy goals but also with a rather unique hierarchy of goals that puts the fight of inflation on the very top and degrades other targets of economic policy to mere by-products. It is this single-minded orientation of the ECB that produces the kind of *oblivion of power* that is characteristic of the technocratic policy approach of the ECB. Instead of entering a 'war of words' with the US, the representatives of the ECB do not openly try to talk the Euro up towards a level that would be supportive for stimulating economic growth. The reason for this unassertive attitude may be the fear of ECB representatives to ruin its fragile reputation in case their efforts are not successful (Huebner 2002). However, the need to build up reputation can't explain the asymmetric reaction of the ECB sufficiently. The reason why the ECB did not use its exchange rate policy tool in the period of an appreciating Euro has much to do with the complementarity of an appreciating Euro and the overarching policy goal of the ECB to flexibilize the labor market regimes in Europe in order to fulfillment the main requirement of an optimum currency area. Furthermore, a high exchange rate helps to keep wage demands of unions in narrow limits. Given the still 'new kid

3 The differences in the policy approaches reflect differences in the political and institutional set-up of various central banks. The ECB represents in this respect probably the most orthodox version of central bank independence (Forder 2004).

on the block' – position of the ECB, the central banker of the Euro zone are very reluctant to exercise an offensive exchange rate policy that is driven by domestic economic interests. Instead they use the strong Euro to make the argument for far-reaching reforms of the labor market and welfare regimes of its member economies. Furthermore, a strong Euro is instrumental in the Bank's fight against inflation as it keeps down import prices and at the same time keeps up the cost-pressure for the export sectors.

CONCLUSIONS

The launch of the Euro has changed the landscape of economic policy making in Europe fundamentally. The transfer of monetary policy sovereignty from the national to the European level in combination with the legally binding restrictions for fiscal policy of national governments created a new regime of *economic governance*. This new form of economic governance can be understood as still work in progress but the ongoing changes have shown so far that its main trait is that of rigid and inflexible principles and norms. The MD as part of this larger financial architecture largely is a information exchange institution without concrete coordination power and ability (Niechoj 2004). I argued that the ECB has much more than monetary policy on its agenda. Given the still non-complete character of the Euro zone as an optimum currency area, the ECB sees it as one of its most urgent tasks to restructure the European labor market and welfare state regimes. Only in case that labor markets are less restricted and welfare regimes dismantle the current degree of labor protection, can a common currency outplay its advantages (Issing 2006). The Interest rate is a powerful price signal for influencing the processes of wage negotiations (Enderlein 2006). Empirical findings support the suspicion that some domestic wage-setting institutions had problems to adequately deal with the new institutional environment given by the Euro (Blanchard 2006). The most prominent case is Germany where the financial architecture of the new currency triggered an export competitiveness due to declining real wages in combination with increasing rates of labor productivity. The resulting depressing effects on economic growth spread quickly over the Euro area.

It is therefore reasonable to argue that the MD should have been preoccupied with the policy behavior of the ECB at large. The experience since the launch of the Euro has shown that the agenda of the MD is broader, more complex and goes in many respects beyond the realm of monetary policy making. However, it seems, as

the actors of the MD are not yet up to this challenge. Given the composition of the MD and the individual interests, it will be up to the trade unions to take on the challenge of the complexity of the money and currency arena in order to transform this institution from an information exchange to an coordination mechanism.

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INTERNATIONALISATION, FINANCIAL CAPITAL AND CHANGED ROLE OF INDUSTRIAL RELATIONS IN RHINELAND CAPITALISM

Jürgen Hoffmann

Market economies, and the institutions in which they are embedded, are subject to constant change. As such, the “models of capitalism” (Coates 2000) or “varieties of capitalism” (Hall/Soskice 2001), which offer theoretical formulation of the links between rational economic behaviour and the institutional forms in which that behaviour becomes embedded, may be best regarded as ideal-typical constructions that capture the institutional complementarities (Amable 2003) of economic systems, and open up an analytical road to empirical knowledge, without ever themselves constituting accurate representations of any empirical reality in particular. As such, economic systems will be, to a greater or lesser extent, constricted in their development by the social, economic and political features that together form any given institutional path; alternatively, of course, the path itself may be changed by the behaviour of actors who, in this way, can narrow down the options for action or open up new options for the future.

In the light of these considerations, the current discussion on the future of the German market economy – a system variously referred to as German corporatism, “*Modell Deutschland*”, or “Rhineland capitalism”, and regarded as the prototype of a “coordinated market economy” (CME) – in the context of globalisation is likely to become misleading if the current changes are discussed only in terms of the system’s “end” or “collapse” under the influence of globalisation and financial capitalism. The intention in this contribution is, on the contrary, to focus on the interplay between economic system and industrial relations, seeking to bring out the ambivalent (or “hybrid” see Höpner 2003) results of their mutual influence. The industrial relations actors (state, firms, trade unions, works councils, etc.) are, after all, not simply victims of changes in the system but themselves an active part of the changes underway.

1. INSTITUTIONAL COMPLEMENTARIES

An important preliminary, before discussing the dynamic interplay between different elements in the system change, is to present Rhineland capitalism from the standpoint of its institutional complementarities. In so doing, we will concentrate, for the time being, on the industrial system and take as our reference point the status quo of 1995¹.

The **financial system** in the German version of a “coordinated market economy” (CME) is dominated by universal banks and “house banks” which either provide businesses with funds in the form of long-term loans or, alternatively, facilitate their access to the stock exchange and themselves own shares. By pooling the voting rights of individual investors whose shares are deposited with them, banks are able to combine the votes of private households (in 1995 = 14.6% of shareholdings) with their own voting rights to achieve a position as strategic investor in incorporated companies. In this way they perceive their role as that of stakeholder and controller of capital. In Germany share ownership accounts for only about a third of gross domestic product and its structure is determined by stakeholders which include banks (10.3%), insurance companies (12.4%), the companies themselves (42.1%), public sector (4.3%) (all figures for 1995). Both approaches – bank loans and equity financing – thus enable firms to adopt a long-term orientation in their production sector and in their company management. Smaller banks, operating on the regional level, and savings banks – the “house banks” by which loans are offered basically by virtue of personal trust – are particularly important for the financing of small and medium-sized businesses which, generally speaking, resort to equity capital to only a very limited extent.

This long-term orientation also characterises the structure of **company management** for, on account of the “two-tier” system (supervisory board and board of directors, with the chairman of the board as the “first among equals”) and the code-termination bodies (representation on the supervisory board, and the works council), decision-making can be an extremely protracted affair. Nor are company goals exclusively to reap high profits but also to retain market shares over time and to preserve employment. Competition, meanwhile, is organised primarily on the basis

1 The account that follows is an extract from Hoffmann 2006, pages 101 ff. where more references to the literature will be found. The concentration on the industrial sector is undoubtedly one of the weaknesses of the Varieties of Capitalism discourse. Nor do the slogan-type formulae used (“high-qualification – high quality – high wage” for Germany and “low-skill – low-wage” for the Anglo-American type) do justice to the widely differing features encountered within each type of labour market and economy. Such is the typical price to be paid for the construction of ideal-types.

of quality guarantees and not price-setting. While the supervisory bodies are dominated – alongside representatives of the workforce and trade unions – primarily by banks and former board members, those who sit on the management boards are generally academics from relevant technical disciplines or appropriately qualified members of the firm. Companies are characterised by vertical and horizontal “cross-shareholdings” with other firms, a situation which helps to solve information problems, as well as to reduce costs and prevent poaching.

At the same time, these German firms are embedded in one of the most dense **civil society** networks in the world. The institutional features of the network include compulsory membership of chambers subject to public statute, industry federations, highly organised employer federations and trade unions with officially defined roles and obligations, research institutes, cooperatives, social security institutions and councils of experts whose task is to prepare legislative drafts. Together these bodies form a dense “confidence-building” network for the supply of information and coordination and/or cooperation on markets, regulated to a very considerable extent by society. All this is embedded in a highly developed welfare state financed by contributions and taxes and which, alongside basic provision (welfare assistance), secures its members’ living standards, on a basis of solidarity, for a limited period at least. The state, semi-state and private institutions are not used simply for purposes of market regulation but also serve as units via which – also in co-operation with the trade unions – the social security system, the vocational training system and the innovation system (basic research) is organised on a “tripartite” basis.

The **industrial relations** system is characterised by a small number of large and well organised trade unions and employer federations. Their organisation is in keeping with their role and official commitments and takes place in accordance with the industry federation principle. On behalf of their membership they conclude autonomous collective agreements at sectoral level and these are generally taken up by other employers also who, while not members of the federation, nonetheless implement the terms of the collective agreement (in 2000 direct and indirect coverage of the workforce by sectoral and company-level collective agreements amounted to approximately 85%). At the same time, the agreements are generally extended to all workers concerned (the State can issue a decree making extension to the sector as a whole compulsory and this regularly happens in the construction sector in particular). In incorporated companies, on the one hand, the right of code-termination, according to different formulae, exists at the level of the supervisory board; meanwhile, wherever the workforce numbers at least five, there is provision for a works council to be set up, this too being, particularly, a feature of large firms).

The works council has wide-ranging information, consultation and co-decision rights. It is also thanks to the activity of the works council that general sectoral agreements can be adjusted and adopted as company agreements designed to meet the specific conditions of a given workplace – a feature that reflects the high degree of flexibility characterising the system. Core employees are protected from hire-and-fire attitudes by a relatively high level of protection against dismissal. Where the firm is concerned this contributes to the cumulative and long-term innovative effects that stem from collective learning processes. A striking feature of the German industrial relations system is that while it is, on the one hand, very much determined by law, it relies, on the other hand, upon a high degree of mutual trust. While it undoubtedly entails considerable outlays for the firm in terms of both time and staff effort, relations are conducted within a framework that is both reliable and familiar and this in turn, reduces the firm's information costs and overheads. Meanwhile, the co-operative culture, which is actually stipulated by law (!) – in the form of the industrial relations act (*Betriebsverfassungsgesetz*) and co-determination legislation – also helps to solve the “principal-agent” problem.

The **training and qualifications system** is based on the “dual vocational training” organised jointly by trade unions, employer chambers and the state. This provides both general theoretical and occupationally specific knowledge which is completed in the workplace by training and qualifications of specific relevance to the firm. In addition, the education system provides, through colleges, universities and technology-oriented institutes of higher education, a wide range of different opportunities for gaining technical qualifications that can also be acquired in the context of further training measures. The protection against dismissal encourages the employee to rely on qualifications gained “in-house” and on collective learning processes accumulated in the workplace. This in turn ensures that employers, who are geared to the long term, will – in the knowledge that poaching can be virtually ruled out – invest capital in training their specialised staff. The in-house labour markets in large firms are therefore highly flexible, based on general *and* company-specific trained specialised labour and insulated from external labour markets by the statutory protection against dismissal. The inflexible external labour markets are therefore (in the manufacturing quality-production sector) a prerequisite for this internal flexibility in the use of specialised labour. All this enables quality production of complex products by means of complex processes. The “high-skill – high-quality” equilibrium in Germany is thus a product of the whole network constituted by the financial system, corporate governance system, civil society environment and corporatist and statutory organisation of industrial relations. Even so, in this

system, because of the vertical and horizontal compartmentalisation of skills and qualifications, structural change within and between the sectors, or from the manufacturing to the services sector, is also made harder, in that the qualifications are so narrowly determined by these factors that transition to other departments, sub-sectors or sectors is made more difficult, if not quite impossible².

This institutional apparatus enables an innovation system that is geared to the long term (sic!) and which in the literature is referred to as “diversified quality production”. The innovation process is particularly focussed on manufacturing industry (machine tools, process/materials/environmental technology, automobile and mechanical engineering) and the chemical industry. It is developed not only, but predominantly, in a step-by-step incremental fashion and is rather conservative and technology-centred – which does not in principle rule out rapid innovation processes and changes. The production field lies principally in the medium-tech sector. At the same time production is organised using the most modern high-tech input and, in the investment goods sector in particular, client-friendly “complete solutions” are offered. It is on this system of quality industrial manufacturing that Germany’s reputation as “world export champion” is based.

2. CHANGED ENVIRONMENTAL CONDITIONS AND INSTITUTIONAL CHANGE

It is undisputed that the conditions underpinning Rhineland capitalism have altered, since the 1990s, as a result of the internationalisation of the economy and changes in the financial sector. These processes, as they have been taking place against the background of an increasingly europeanised and internationalised economy, will be illustrated here by means of three factors of institutional change, as follows:

- 2 Attention was first drawn to the sharply vertically and horizontally compartmentalised forms of skill acquisition by Horst Kern and Charles Sabel (1994). They described these as a central problem of the Post-Fordist structural change in manufacturing and wrote of the “declining” virtues of the German skilled worker. Jürgens later put his finger in the wound (2003). David Soskice has again recently stressed this as a problem of the transition from the industrial sector to the service sector and rightly sees it as a central weakness of German capitalism, albeit one that is being tackled by the reforms in the vocational training system. See Soskice 2006.

- Developments on goods and capital markets – both national and international – and pressure from globalised markets requiring or encouraging corporate management to introduce new forms of corporate governance.
- The changes in corporate governance structures of incorporated companies associated with the emergence and implementation of the new logic of short-term speculative capital (“financial capitalism”)
- Changes in career patterns and in the composition of management of incorporated companies and the influence of financial capitalism on management behaviour.

These three factors are closely interlinked and are here separated for analytical purposes alone. Other factors that affect the Rhineland capitalism system – such as tertiarisation of the economy and national politics – are deliberately left out here but would have to be incorporated into a more fully encompassing analysis (see Hoffmann 2006: 155 ff.).

2.1 Internationalisation

The *Europeanisation and internationalisation of trade and production*, in combination with benchmarking practices, has intensified competition to an unprecedented extent, giving rise to escalating levels of uncertainty on markets. Accordingly, aside from the influence of investment funds and rating agencies, management see shareholder-value policies as offering a way of reacting swiftly, flexibly and successfully to the pressure of competition by concentrating on core business and competition within the firm. With the internationalisation of production – the share of foreign-based workers in the total workforce of the 100 largest firms rose from 17% in 1986 to 27.6% in 1996 and during the same period foreign turnover grew twice as fast as domestic turnover (Höpner 2003: 85 and 87) – firms are exposed to stronger pressure from global competition. Insofar as this is increasingly changing from a “complementary” to a “substitutive” form of competition, German export products, which traditionally competed on the basis of their quality, can no longer be kept out of price-based competition. This means that cost and profitability goals have to be redefined in the light of the shareholder-value approach, and one consequence of this new approach is the reorientation of corporate policy in accordance with short-term goals. Firms are restructured; production efforts are concentrated on core areas; cross-subsidisation is abandoned; the company’s internal organisation is reshaped and streamlined, using systems of indicators designed to bring market relations inside the firm (“the new reality of the market in the firm” (Sauer 2005)).

What is more, the export-oriented firms – the global players – tend increasingly to pass price pressure from world markets on to regional producers, forcing these smaller firms to step up their rationalisation and cost-reduction measures – with the consequence that the export success of key firms can result in job losses in the surrounding region. Such losses can also result from the trend towards the Europe-wide reallocation of production, which affects, in particular, low-skilled workers involved in standardised production processes, even though, on balance, the German labour market does also benefit from the efficiency-raising effects of this form of reallocation. The decisive factor here is, rather, that industrial relations are jeopardised by the possibility of relocation. For it is generally the case that, through internationalisation of the economy, in conjunction with post-Fordist structures (internal and external flexibilisation of production), the ratio between waged labour and capital is shifting further in favour of capital as a result of the increased exit-options now open to firms. It is true that not all firms can avail themselves of these options and that not all those that could do so actually wish to do so. All can, however, issue a threat in this direction and neither trade unions nor works councils and workforces can be quite sure whether or not the threat is realistic. In this way the relationship of trust that underpins the Rhineland social partnership model has been undermined and shaken up.

2.2 Changed financial strategies of investors

Hall/Soskice (2001) have themselves stated that the change in financial markets and its influence on corporate governance structures endangers the institutional stability of the CME type. In the USA, with the help of media campaigns and against the background of a legitimacy crisis involving top managers of a longstanding pension fund, these structural changes in the financial markets, and in the relationship between financial and productive capital after the 1970s, took the form of a “science-induced revolution” that reversed the traditional relationship between financial and real capital:

“The transition to autonomous and *ex ante* claims by investors for minimum rates of return from companies is the result of a science-induced revolution: of the establishment of an assessment formula which, on the basis of reference to assumed capital costs and by means of simple mathematical formulae, claims, unequivocally and compellingly, to justify the demand for a given rate of return” (Kädtler 2005: 34).

In this way a new patented concept of Economic Value Added (EVA®) was introduced to financial markets and forced through vis-à-vis major US corporations which, at this point in time, were showing drastically low returns (see Kädtler 2005: 34 ff.). Against a background of deregulation by the Reagan administration, major, professionally run financial intermediaries now emerged as dominant stock exchange players (investment and pension funds that were no longer obliged to invest solely in government bonds). These pushed aside small-scale shareholders and used both voice and exit options vis-à-vis the managers of major corporations in order to force their profit objectives on the real economy. While in 1960 88% of US share capital was still in the hands of small shareholders and families, today the 20 largest investment funds own over 40% of shares (Windolf 2005: 23 ff.). These collective players are less interested in dividend payments than in share value and the scope for speculation, which is evident from the fact that the frequency of transactions has risen by 73% during the period since 1960 (ibid.). This paradigm change was also supported by top management in the firms concerned who opened up for themselves, in the form of stock options, tremendously increased income opportunities (ibid. p. 35), so that, among management too, loyalty to the firm was exchanged for loyalty to the financial markets (ibid and Windolf 2005, p. 50).

Since the beginning of the 1990s the corporate governance structure has also changed significantly in German incorporated companies, as shown particularly by Höpner (2003) in his wide-ranging empirical study drawing on company reports, balance sheets and a company data base set up by the Max Planck Institute for social research in Cologne. Over a third of large German incorporated companies have transposed their system of account presentation to the international rules – IAS and/or US-GAAP (1999: 33%) – and opened Investors Relations departments (an early indicator of a shareholder value policy). At the same time there is a clear trend for profit goals to be reformulated in capital market terms (e.g. using the discounted cash flow concept), while management salaries are increasingly performance-related. Authors used by Höpner were unanimous in observing that “there was in the 1990s a distinct trend towards the effective capital-market orientation of large German firms” (Höpner 2003:53).

In Germany a range of both external and internal reasons underlie these indicators of an increasing capital-market – and hence short-term – orientation, which is typical of the Anglo-American corporate governance systems and is now confronted with the new kind of financial capitalism described above. Various aspects of the new situation will now be summarized (see Höpner 2003; Windolf 2005; but also Nölke 1999, Lütz 2000, Jürgens et al. 2002).

In Germany too, within the Rhineland capitalist system, the processes of internationalisation are accompanied by *changes in the financial strategies pursued by shareowners of incorporated companies*, although – as pointed out by Jürgens et al. (2002) – in Germany these account for only a comparatively small share of businesses. The “Trojan horse” being used to import SME-type features into Rhineland capitalism manifestly consists, on the one hand, in a clear change of strategy by the major banks in favour of investment business and, on the other hand, in the increased significance of institutional investors since the mid-90s (investment funds, etc. see Jürgens et al. 2002; Windolf 2005; Deutschmann 2005). It is true that the ownership has not fundamentally changed. What seems to have happened is that the major banks which, thanks to the voting rights conferred on them by depositors, administer a large share of the small-scale share ownership in Germany, are withdrawing their own shares, in order to gain liquidity for the investment business. By administering their shareholdings in “special funds”, they become “institutional investors” in the narrow sense who, rather than seeking to invest strategically, and having largely given up any “loyalty” to individual firms, pursue short-term goals geared to annual returns of the finance sector. As investment banks they manifestly no longer have any scruples about helping to finance even hostile takeovers, thereby destroying the traditional relationship of trust between house bank and firm³. At the same time there has been a rise in the share of international institutional shareholders (investment funds, pension funds, insurance companies) pursuing basically similar goals. In several incorporated companies the share of such investors now represents over 20% of shares. With only relatively small shares, and using both voice and exit strategies, they put firms under pressure to aim for high annual returns. Manufacturing companies are able to meet this pressure only by restructuring (concentration on core business, etc.) and/or transferring the costs to employees. The result of this is a general increase in capital-market orientation so that diversified companies of the kind typical of quality production in Germany run into difficulty (cross-subsidisation as grounds for suspicion, requirement to concentrate on profitable core business) and the growth and employment goals pur-

3 The expert on international bank and finance systems at the University of Frankfurt am Main, R.H. Schmidt, puts it as follows: The Fall came in 1997 when the Deutsche Bank financed, as investment bank, a takeover for Krupp-Hoesch, while one of its board members was on the supervisory board of Thyssen, the firm under attack. Relationships of trust earlier built up by the large banks – admittedly in pursuit of profits and domination – have been damaged. Previously, insofar as they lent them money, banks were just as interested in long-term stable development of firms as were their employees. “They were also “the ideal mediators between the different stakeholders.” (Schmitt 2006: 34).

sued by real capital are forced to the margins by the short-term profit goals of “fictitious” capital. As a result of the qualitative changes on financial markets, their growing capital-market orientation and equity capitalisation, and the loss of strategic direction by large banks, as well as new legislation (*Kapitalaufnahmeerleichterungsgesetz*) passed by the red-green government, the possibility of hostile takeovers is also growing on the “market for company control” (see Windolf 2005 and 2006). For companies and their management shareholder-value policies have thus increasingly become the condition for successfully warding off the threat of hostile takeovers (see Höpner 2003: 104 ff. and Windolf 1995), even though such threats are rarely carried out and usually entail losses for the actors.

A further – and not yet to be underestimated – aspect of the change relates especially to the situation of small and medium-sized businesses (SMEs) which in Germany account for 80% of employees and produce just over 50% of GDP. Because of changes in the strategic direction taken by banks, from the universal bank and the house bank to the investment bank, and as a result of the “Basel II Agreement”, it is becoming more difficult for SMEs, which are chronically undercapitalised in Germany, to meet the stringent equity capital requirements and acquire external capital. Short-term business management calculations may be expected increasingly to dominate, undermine and ultimately render quite impossible the cooperative relations which in the past made long-term profitability goals possible also in this sector of the economy.

2.3 Change in management personnel behaviour and structure

Not only are the short-term profitability calculations associated with the growing capital-market orientation impacting on the costs for firms of maintaining the classic Rhineland triad of profitability, corporate and employment growth. Personnel structures and management behaviour appear at the same time to be undergoing rapid change. While, until the 1990s, the typical scenario in the large firms of Rhineland capitalism in Germany was for top managers to have come up through the firm (house careers), to remain loyal to “their” firm, and generally to have some kind of relevant technical training and background, in the 1990s there was a dramatic change in the composition of management and in the ratio between managers with a technical background, on the one hand, and those trained in business or law, on the other (see Höpner 2003: 123ff.). The degree of overlap of delegates

to supervisory boards among the fifteen German companies most prone to such overlapping has halved since the 1990s (p. 136); the average period in office of the chairman of the board has been “falling rapidly” since the mid-1980s (ibid: 131); among board chairmen there are now more business managers than technicians, and the significance for management of the labour market outside the firm is rapidly increasing (p. 130 ff.). The now customary management share options, received on top of their salaries, promise diversification of income and lead to a situation where managers’ loyalty is diverted away from the firm and towards the financial market, further loosening any ties of loyalty with the firm.

“The higher the short-term profits from share options that company managers can expect, in comparison with their long-term income opportunities, the stronger is the incentive for opportunism” (Windolf 2005a:51).

This predominant trend, since the 1990s, for company management to set their sights on the financial market – unlike the technicians of the old school and classic entrepreneurs – has no doubt been speeded up to some extent by the changeover in generation of ownership. It is a trend that has been extensively observed, in the regional context, by Dörre, in an economic survey of the industrial region of Nuremberg among the medium-sized firms that predominate there (Dörre 1999: 198 ff.). The introduction of shareholder-value policies is accompanied by a strict orientation towards profit rather than growth (profit expectations being geared to expected annual returns on the financial market); cross-subsidisation ceases and market mechanisms are incorporated into firms’ operations in the form of profit centres and indicator systems. All these developments lead, to a greater or lesser extent, to a thinning out of regional networks and the erosion of codetermination and co-management by trade unions and works councils.

3. FINANCIAL CAPITALISM AND INDUSTRIAL RELATIONS IN RHINELAND CAPITALISM

Political developments have themselves – no doubt also subject to pressure from the neoliberal discourse and with a view to European integration – actually facilitated the change in the German CME type (though Hancké (2001) was able to produce similar findings relating to France). The tax reform introduced by the red-green government (including the abolition of capital gains tax on the sale of shares) and the law on the deregulation of financial markets (the “capital market promotion laws” – see Jürgens et al. 2002) served to foster disintegration of the “Deutschland

AG" and to promote a shareholder-value-oriented form of corporate governance in banks and large companies. The laws of the 2010 Agenda were aimed at, among other things, a flexibilisation of external labour markets. Privatisation policy has in Germany, as in other CME countries, weakened the state as actor – in the production of public goods and as participant in the bargaining systems – or has restricted its role to that of external regulation. This has contributed, in turn, to a weakening of trade unions which had previously adjusted their organisational limits in keeping with the boundaries of the state or state undertakings (transport, railways, post office, public security and cleaning services, etc.) and now find it difficult to organise the private-sector workers who perform the jobs newly created in these segments "beyond the state".

The self-imposed weakening of the state as political actor is accompanied by the weakening of the employer federations – as a result of lapsed membership or failure to join (particularly in eastern Germany and in the services sector) – as well as of the trade unions, as a result of the process of economic and social modernisation. Here the "Trojan Horse" – to retain this image – is, especially, the economic and organisational structures in place since the 1990 "turning point" in eastern Germany. Like the other central and eastern European countries, this part of Germany had failed to develop its own institutional forms for embedding the capitalist economy. What is more, it laboured – and still labours – under tremendous pressure of competition from the western German economy where productivity is at least 35% greater. In eastern Germany it has so far been possible to introduce the standards of the west German corporatist model to no more than a very limited extent. The legal regulations (still) have too weak a basis in the economy, so that employers regard it as more economically rational not to join the organisations, and not to take part in collective bargaining (see Müller-Jentsch/Weitbrecht 2003: 195 tables 4 and 5). And the workers in the new *Bundesländer*, who initially placed high hopes in the trade unions, have been disappointed, because the trade unions proved unable to prevent unemployment, or, insofar as they were unemployed, they saw no point in becoming unionised. On the employer as well as the employee side, organisational density is accordingly very low.

But even disregarding these difficulties linked with reunification, the post-Fordist restructuring of production had already led to loss of positions of power in companies because the top company levels, at which workplace codetermination practices are aimed, were increasingly shifting decisions both downwards (group work, etc.) and upwards (to the group headquarters). This trend is taken even further when the company management is driven by shareholder values. As a result of the ero-

sion of stable employment and working time structures (*Entgrenzung der Arbeit*, Döhl et al. 2000, Kratzer 2003), of the introduction of profit centres and monitoring of indicators, of the “new reality of the market in the workplace” (Sauer 2005), entailing the erosion of company networks through the dismantling of cross subsidisation and concentration on the core business, not only are the stable reference points represented by works councils and collective bargaining forfeited, but competition is strengthened also among employees and groups of employees themselves. The individualistically inclined “labour entrepreneur (Pongratz/Voss 2003) thus becomes a model instance of the “winner of modernisation” among employees.

On account of structural changes in the economy (tertiarisation, modern sectors with small and micro-enterprises) and the process of social modernisation (pluralisation – individualisation, erosion of traditional working class culture), the rate of unionisation throughout Germany has also now sunk to below 20% – a trend which, with the exception of the Scandinavian countries, has long been observed in almost all the countries of continental Europe (cf. Waddington/Hoffmann 2000:54). The membership structure of the DGB trade unions today corresponds to the employee structure of the late 1960s. What is more, the peripheral groups of members (who occupy standardised non-skilled jobs) are under threat of relocation. It has proved scarcely possible – or totally impossible – to organise the segments of “modern employment”, particularly in highly skilled areas. The expanding services sector is, for the most part, reached only in its traditional segments (public services, quasi-industrial jobs in retail trade, media, banks, insurance). As for workers occupying precarious jobs and the long-term unemployed, no formula that could enable their organisation has yet been devised (and such a formula is no doubt impossible). The prevailing trade union discourse thus reaches, above all, those members of the workforce who are “left out of” modernisation and those who “lose out from” modernisation (cf. Schumann 2001).

With the weakening of their formal associations in continental Europe the important actors of the corporatist model are threatening to break away, and some important political actors have indeed begun to withdraw from corporatist alliances. The weakness of the German trade unions – although initially attributable not to the globalisation process but rather to processes of economic and social modernisation – has itself become a factor of the erosion of the institutions of Rhineland capitalism; in a manner that was certainly not deliberate, these trade unions themselves have become actors of institutional change.

4. CHANGE, YES, BUT THIS DOES NOT MEAN THE END!

As a result of the processes of economic and social modernisation, the German trade unions and their “opposite numbers”, the employer federations, have sustained – in their capacity as industrial relations actors – an enfeebling impact. Their weakening is accompanied and compounded by the self-imposed weakening of the state and the tendency of political forces to withdraw from tripartite alliances. The weakness of the trade unions, in particular, is in striking contrast to their social persona, for they continue to be perceived as strong and influential organisations in a manner that is not wholly unjustified:

- because they are still a part of the political system; they continue to be represented, with both seats and votes, in the tripartite governing bodies of the welfare state institutions and on many political bodies; the corporatism of Rhineland capitalism may have developed some cracks but it is not yet defunct and any defection on the part of capital would not leave Germany’s “quality production” – the basis of its export success – unscathed;
- because they still are the recognised representatives at sectoral level, and the sectoral agreement (*Flächentarifvertrag*) and trade union controlled plant-level agreements still cover around two thirds of employees; and also because the flexibilisation strategies brought in by firms in the industrial core sectors could not succeed without trade unions and workplace interest representatives;
- because, with their monopoly on representation of the skilled workforce in industry, they still control the core area of quality production, and hence of “world export champion Deutschland”, and here they are still in a position to impose sanctions;
- and because they are still indisputably the carriers of codetermination in large industrial firms and, at both workplace and company level, represent indispensable intermediaries between the interests of capital and those of employees; this applies above all where management takes place in accordance with shareholder values, even if under such circumstances the functions of company codetermination may change.

What emerges is a rather uneven picture: on the one hand, a weakening of the institutions and actors of Rhineland capitalism as a result of the influence of internationalisation and finance market capitalism; on the other hand, the continuing existence of central bastions of corporatism in manufacturing industry, with the SME sector, and in particular the private services sector, pulling out of the system of corporatist regulation (insofar as they ever belonged to it!). It is even argued here – not

without justification – that the development of a modern services sector in Germany is prevented by the prevailing system of regulation that allows quality production in industry (cf. Baethge 2000). Corporatism, as conducted in core industrial sectors, had thus, on the one hand, had to modify its content, insofar as co-determination practitioners and trade unions have no choice but to take in their stride the changed forms of corporate governance and restructuring practised by firms. Equally, they are required to adjust their policy strategies and conduct concession bargaining to take account of the other side's increased potential to issue threats ("exit options"). On the other hand, corporatism is becoming less able to transmit its practices to the rest of the economy, and specifically to the services sector. While some of the key factors underpinning the Rhineland model of corporatism have indeed undergone considerable change, this does not mean that the system as a whole has come to the end of the road.

Translation from the German by Kathleen Llanwarne

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SOCIALLY SUSTAINABLE LOCATION COMPETITION

Béla Galgóczi

1. INTRODUCTION

Struggle for survival or fight for new investment has become a daily practice at production locations in Europe. Cases like Volkswagen Brussels, the European restructuring programme of General Motors with location competition between the German plant in Rüsselsheim and the Swedish Trollhättan or the German Bochum and Polish Gliwice demonstrate this day by day. In other branches, such as ICT manufacturing or IT services, the processes may not be so apparent, insofar as complex business strategies conducted on a global scale decide about the future of workplaces at one or another location. While workers are confronted with pressures by employers to cut wages or work longer hours in order to keep their jobs, concessions do not always guarantee the jobs, as the case of the mobile phone unit of Siemens in Germany showed. Multinational corporations (MNCs) have become mighty actors able not only to move capital around the world in order to capture global advantages from lower production costs but also to use the threat of relocation in order to obtain more favourable regulation from governments and concessions from trade unions.

With the integration into world trade and global factor flows of countries that had been isolated for several decades, not only did new markets emerge but a huge labour force of hundreds of millions of workers also became integrated into the world economy. Central Eastern Europe (CEE) and also, to some extent, China have at their disposal a medium- to high-skilled labour force at much lower costs. These regions have very different features whether in terms of labour and capital, or commodity price ratios and cost structures. The combination on a large scale of global capital and the additional labour supply from emerging countries has effected a fundamental shift in comparative advantages.

Pressures have been further amplified as global capitalism has changed its face and managerial capitalism has been giving way to financial capitalism with shareholder value often taken to extremes. These processes have resulted in a shift of balance between labour and capital to the detriment of labour and it is to be ex-

pected that factor mobility will continue to be a decisive element of the world economy while the pressure exerted by global capital and product markets is unlikely to decrease. This does not mean, however, that employees and trade unions will remain confined to a defensive role, often able to do no more than focus their efforts on minimising the social consequences of relocation and restructuring in a passive way.

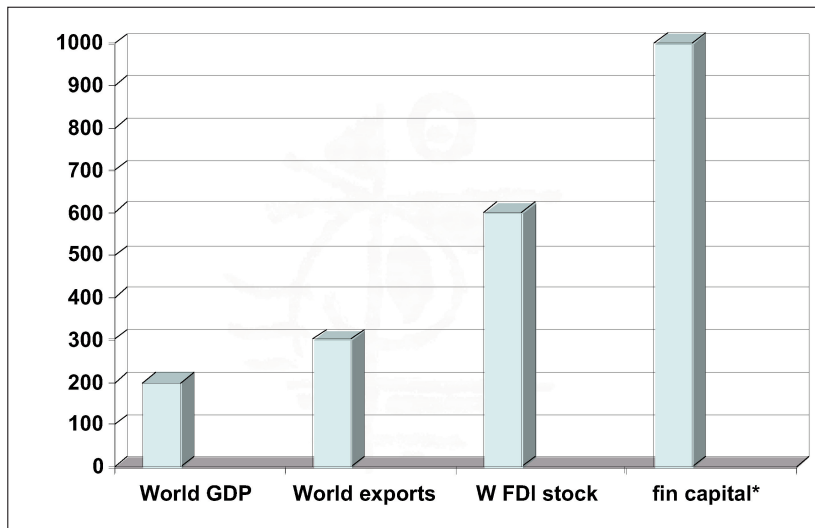
In the following sections we will attempt to supply an overview of the principles on which 'relocation' operates, the magnitude of the phenomenon and the prospects for its future. We will argue that, given the complexity of the 'relocation' phenomenon, there is a need to broaden our horizons and consider the diverse patterns of capital mobility and location competition. An attempt will then be made to outline an active scenario, considering what trade unions might do to foster socially responsible location competition, and referring also to some of the good practices that have appeared so far.

2. HOW RELOCATION AND CAPITAL MOBILITY WORKS

2.1. The context of global capital mobility

While world GDP doubled between 1990 and 2005, world exports increased threefold and the global stock of foreign direct investments (FDI) grew almost sixfold (from US\$1791bn to US\$10.672bn), within which capital invested by collective investment funds grew tenfold (Figure 1).

Figure 1: Increase between 1990 and 2005 (1990 = 100)



Source: Unctad WIR 2006

* financial capital invested by collective investment funds (hedge funds and private equity funds)

The pattern of global economic activity has changed markedly, driven by extensive and fundamental changes in technology, production, investment and trade flows. The globalisation of economic activities does not apply to industrial production and physical capital only, but also to services, R&D and human capital.

Beside the huge excess labour supply, there are also other factors that have shaped the process of globalisation and thus the patterns of capital mobility:

- Technological change – above all the emergence of information communication technology – has meant that activities (above all services) that were previously known as non-tradeable have become tradeable and thus subject to international competition, outsourcing and off-shoring.
- Multinational companies apply new business models that have led to the emergence of global production-sharing networks. Global sourcing has become characteristic, with buyer-driven networks – as they previously existed in wholesale trade, usually known as the Wal-Mart pattern – having appeared also in manufacturing. In this case subcontracting activities are subject to fierce global competition and global scoreboards monitor the cost-effectiveness of each activity. Different supply-chain management strategies

appear, as is clear from sector-specific examples from the automobile and ICT manufacturing sector.¹

- Financial innovations and the increasing financialisation of the economy have intensified these processes still further, resulting in shifting definitions of core business. This has led investors and managers to justify further spin-offs and the outsourcing of both manufacturing and services activities. Private equity funds and hedge funds (collective investment funds) have become mighty economic players controlling, in individual cases, more capital and employment than the top companies in the world (Rossman and Greenfield 2006). The value of acquisitions by collective investment funds has risen from US\$13.9bn in 1995 to US\$134.6bn in 2005, accounting for 15% of world inward FDI flow (UNCTAD 2006).

All these processes illustrate how fundamentally the international division of labour has changed in the last 10-15 years and how the previous balance between capital and labour has shifted. Employers exploit this situation and play off employees at different locations against each other, pressing for wage concessions and using the threat of relocation as a major argument. Location competition has thus reached quite unprecedented levels.

2.2. Relocation – some conceptual foundations

The term 'relocation' is used when economic activities are shifted to foreign locations through a combination of cross-border trade and FDI, often referred to as offshoring or cross-border outsourcing (see more on the typology in Galgóczi et al. 2006). The activity previously performed in-house can be outsourced to any subcontractor at a foreign location, but it might also happen that the firm establishes its own subsidiary for this purpose, retaining it under its control by means of ownership (called also 'captive offshoring').

The key feature of relocation is substitution. Relocation implies that the process of offshoring has a direct or indirect substitution effect on domestic operations in the source location, including, most importantly, employment (i.e. an implicit or even explicit transfer of jobs). When speaking of relocation, we have first to speak about foreign direct investment flows.

1 In ICT manufacturing vertical specialisation of original equipment manufacturers resulted in a disintegration of the production chain as contract manufacturers took over different stages of manufacturing. Then they reintegrated the manufacturing process and emerged as electronics manufacturing services providers with a global footprint /e.g. Flextronics/ – (Schipper, Haan 2005).

A distinction is traditionally made between two types of FDI, namely, horizontal and vertical:

- In the case of horizontal FDI, the strategic aim of the investment is to explore new markets. In manufacturing, MNCs replicate the same production process in a foreign country in order to explore its markets or use their new production platform for exploring the markets of adjacent countries also. For example, the Czech car manufacturer Skoda has established an assembly plant in Russia to serve the Russian market, instead of exporting from the home location. Renault adopted the same strategy with a Romanian location to produce Dacia Logans for local markets, though these cheap cars subsequently gained popularity in western Europe also, constituting competition for other Renault models. Clear market exploratory investments are to be identified more in the services sector (banking, retail, public utilities), where the sole aim of the investment is provision of local markets and no negative impact appears on jobs in the source countries. This was clearly the case when, for example, France Telecom took over the Polish Telecommunications Company, or the British BAA took over Budapest Airport.
- In case of vertical FDI, multinationals organise a vertical division of labour between the domestic and host country locations in order to exploit differences of factor endowments and raise efficiency by optimising value chains. Specific stages of production – often ancillary business services such as accounting, but also labour-intensive elements of the manufacturing value chain – are relocated to foreign-based companies or subsidiaries to increase the competitiveness of the entire production chain. In such complex cases it is very difficult to evaluate the employment impacts, either overall or in specific locations. On the surface it may result in job losses in the source country. However, optimising value chains may strengthen the company as a whole, securing jobs also at the central location. For example, the German automobile industry, which in recent years has invested extensively in low-cost locations, has managed to strengthen its position on world markets and has been creating jobs also at home (IG Metall 2006).

At the far end of the spectrum is the case in which entire production locations are closed in one country, only to be re-opened in a foreign location where the wages paid will be lower, with the explicit intention of serving domestic markets from the foreign location. Typically, as illustrated by the case of the AEG plant in Nuremberg, Germany (Artus 2006), this concerns traditional manufacturing sectors.

Several authors have emphasised, however, that the previous distinction between these traditional categories has become less profound. According to the knowledge-capital model, FDI is driven by both factor costs and market access acting in parallel (Markusen 2002). Empirical studies have also shown the difficulty of such distinctions on the basis of surveys among US and Canadian firms (Feinberg and Keane 2003).

We can indeed identify a range of intermediate cases where explicit and implicit forms of factor substitution with direct and indirect impacts become mixed with processes of specialisation and restructuring.

There are, what is more, relocation processes with a substitution effect that do not appear in the FDI statistics; this is true, in particular, of the international outsourcing of activities to foreign suppliers, where today firms are buying at one location, only to move elsewhere the very next day. Moreover, a growing number of multinationals claim to have global business strategies based on a global presence, enabling them to shift activities between locations according to actual market demand and cost effectiveness. Some authors speak about a new stage of offshoring, where the unbundling of activities can be described as a 'trade in tasks' (Grossman and Rossi-Hansberg 2006).

Under such circumstances 'relocation' becomes a much more elusive phenomenon. Nor can we then simply say, for instance, that market exploratory investments are beneficial for the home country, while vertical investments, aiming above all cost-cutting and higher efficiency, are detrimental.

A further point is that, whereas the narrow definition of 'relocation' takes only existing capacities into account, decisions on new investments are equally important, as are decisions about reinvestment or repatriation of profits earned at foreign locations (Hunya and Galgóczi 2006). These all contribute to increasing levels of competition between locations. Will new investments be placed at the domestic location or abroad, and, if the latter, does this imply the longer-term downscaling of the domestic location by starving it of new investment?

This is why the narrow definition of relocation (direct transfer of production and jobs from one country to another) cannot cope with the effect of complex business strategies, and even if we continue to use the term 'relocation', we do so to mean a wider context of 'substitution of labour' through capital mobility and 'location competition'. In this way we cover a wider range of phenomena that pose a more complex challenge for the labour movement.

2.3. What motivates firms in relation to their choice of location?

Multinationals are nowadays in a position to review their activities regularly and implement location choice policies through an ordered set of qualifications (McKinsey 2005). They are helped to this end by internet portals that offer any kind of activities to be sourced from any point around the globe and by an armada of consultants who advise them.

The cost of production and of the provision of services is just one of many factors. If we look only at annual wages, based on country averages in 2006, even within the EU-27 we find a difference of 1: 20 (2500 Euro in Bulgaria and 50,000 Euro in Luxembourg). On the other hand, labour costs alone are not a decisive factor. Bulgaria has received the lowest amount of FDI among EU countries and the trend does not show substantial change. On the other hand, even if average annual wages expressed in Euro have grown two- to threefold in the Czech Republic (from 3400 Euro to 7700 Euro) or Hungary (from 2610 Euro to 7700 Euro) between 1995 and 2005, FDI and especially that engaged in production-sharing networks has been expanding continuously (for more information on wage developments, see Galgóczi, Keune, Watt 2006 and Keune and Galgóczi 2007).

Factors other than just wages or labour costs play a decisive role in offshoring decisions. McKinsey consulting uses a 'location attractiveness score' for business clients, where labour costs have an aggregate weight of 28% in the attractiveness of a location and prospects of future wage developments are also taken into account. Geographical vicinity, talent availability and the quality of human resources in general play a substantial role. Political and economic stability and general business conditions (tax systems, investment subsidies, corruption, business-friendly bureaucracy) are equally important.

Even business consultants emphasize, however, how important it is for firms to begin any consideration of offshoring with calculation of the 'offshore value'. Firms should evaluate the sources of their comparative advantages with a view to opportunities to increase labour productivity at home, while considering other efficiency levers. All costs entailed by offshoring decisions need to be taken into account, not only direct manufacturing costs. It is very often the case that the aggregate costs of an offshoring transaction – including transport, logistics and hidden costs – would not result in a greater cost saving than could be forthcoming by the adoption of saving measures at home.

2.4. The magnitude of relocation in the European context

2.4.1. An overall view on the basis of FDI figures

What is the magnitude of 'labour substitution' as a result of capital mobility – or 'relocation' as this complex phenomenon is often labelled? To what extent are well paid quality jobs in Europe threatened by outsourcing and offshoring?

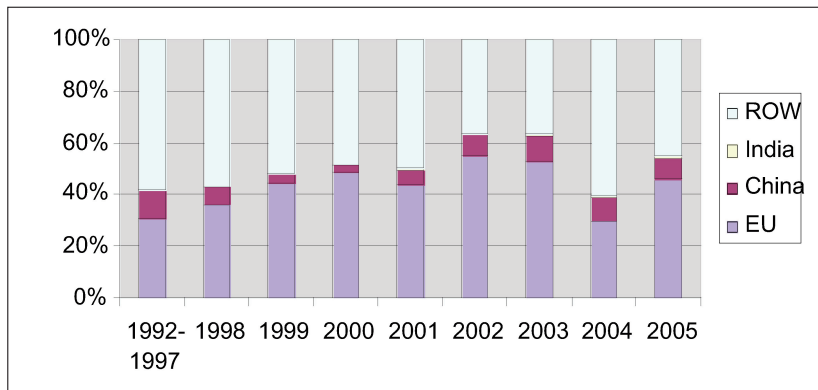
We will attempt to provide a brief overview of current FDI and trade processes and draw some conclusions for their employment impact. This overview will be followed by an estimate of the potential of future relocations.

There are two starting points here. One is to examine cross-border capital flows and international trade in both quantitative and qualitative terms. In seeking an estimate of future relocations, the business strategies of multinationals with regard to offshoring and outsourcing might be expected to supply some orientation.

Looking at the worldwide distribution of foreign direct investment (Figure 2) with particular reference to Europe, the EU15 can be seen to be the most important target of global FDI, while investment flows to the new Member States do not seem particularly high. The EU15 countries received US\$ 389bn of inward investment in 2005, accounting for 42% of global FDI inflows (UNCTAD 2006). China received around 5% and the rest of the world (ROW) more than 40%.

The eight CEE new Member States (EU8) received US\$33bn (€26bn), only 8% of the amount received by the 'old' Member States. The dominance of western Europe in worldwide inward FDI does not mean, however, that the EU15 is the greatest beneficiary of international capital flows: the EU15 also leads the field in terms of outward FDI flows, amounting to approximately US\$ 550bn in 2005. There was therefore a net FDI outflow from the EU15.

Figure 2: Distribution of FDI by main world regions
FDI inflows as % world total



UNCTAD World Investment Report 2006, Annex Tables

It should also be kept in mind that the bulk of both inward and outward FDI for the EU15 is due to intra EU15 capital flows. On the basis of overall FDI figures, FDI outflow from the EU15 towards the EU8 does not seem substantial,² when compared to both intra EU15 capital flows and total FDI outflow from the EU15.

Does all this mean that the whole relocation debate is merely a matter of perception? Not necessarily, as we shall see. On the basis of individual cases and anecdotal evidence there is a strong perception that relocation is a massive phenomenon, while FDI figures in general seem to show the opposite. As we know that not all FDI means relocation (and vice versa), this is not a contradiction. On the one hand, it is important to be aware that 78% of inward FDI to developed economies is a result of mergers and acquisitions (e.g. Vodafone-Mannesmann or Unicredit-HVB cases) – with mostly a negative employment impact – and only a fraction of these transactions bring fresh capital. This is one indication that ‘factor substitution’ within the high FDI inflows to the EU15 plays a minor role.

As far as ‘new investments’ are concerned, the gap between the EU15 and the EU8 certainly looks much smaller than ‘raw’ FDI figures would seem to show. On the other hand, investments in the EU8 are growing dynamically and their qualitative dimension shows significant changes. Shifts in economic activities are not limited to relocation in the narrow sense, that is, the transfer of production sites from one

2 The share of the EU15 in the FDI stock of the EU8 is above 80%, which is also reflected in the annual FDI flows. The approximately €20bn European FDI flow to the EU8 is indeed not substantial compared to the €550bn total FDI outflow from the EU15 countries in 2005.

country or region to another. There is a more hidden dimension of the process whose impacts become apparent only over a longer period.

This is why it is important to examine the full picture in more detail and to pay attention to the structure and development trends of these investments.

2.4.2. An estimate for the magnitude of relocation on the basis of international trade patterns

As we also saw above, recent trends and the magnitude of investment flows from the west to the east are not particularly dramatic and do not seem to justify concerns about relocation. Some of the structural features of FDI flow and FDI stock in the EU8 do, however, indicate that relocation is taking place. Are there other signs, to be identified when taking longer-term trends and qualitative features into account, that would support the incidence of relocation?

Given that in the European context manufacturing plays a substantial role in the FDI flows to CEECs, the shrinking manufacturing base in western Europe, together with the consolidation of manufacturing in the EU8, can be regarded as an important longer-term structural phenomenon. This process seems to be, to a substantial extent, a result of relocation that, in the case of automobile, components manufacturing and the ICT sector, is supported by a great number of examples.

We can find more indirect evidence of relocation and qualitative shifts in the positions of countries in the international division of labour if we look at structural features of manufacturing trade.

High levels of manufacturing trade within the same industry (intra-industry trade or intra-firm trade) are signs of cross-border integration of manufacturing activities throughout the value chain.

Countries where intra-industry trade is above 70% of total manufacturing trade can be seen as highly integrated in international value chains. Intra-industry trade intensity is a sign that a large part of the production is being carried out in these countries and the intermediate products are being re-exported to the home country, thereby substituting labour.

This is clearly the case in relation to the Czech Republic, Hungary and Slovakia. The share of intra-industry trade in total manufacturing trade was 81% for the Czech Republic, 79% for Hungary and 75% for Slovakia as an average value for the period 1996-2003, with an increasing trend (OECD 2006), in line with significant FDI flows into manufacturing.

Strong export expansion is also characteristic of these countries. In the period 1995-2003 the OECD countries that increased their manufacturing export market

shares on OECD markets to the greatest extent were Hungary (by 116.2%), Slovakia (by 86.8%) and Poland (by 78.1%).

As a result, the large trade surpluses of the EU15 with the CEECs have shrunk and in some cases turned into deficits, as trade statistics show (Broadman, 2006). Most indicative is the fact that the Czech Republic, Hungary and Slovakia have a trade surplus with the 'export champion' Germany, especially in manufacturing trade, that was built up in the course of intensified production-sharing FDI (relocation).

High intra-industrial trade, the share of which within total manufacturing trade grew from scratch to the level of the EU15 within a short period, a high share of FDI inflow into manufacturing that resulted in a strengthening of the manufacturing base in the EU8 at a time when manufacturing in the EU15 was shrinking, together with soaring manufacturing exports, are features of the EU8 that are quite telling about relocation.

Export capacities in CEECs were thus built up to a large extent through FDI and relocation and were subject to subsequent upgrading. As a result, a shift from labour-intensive production toward technology and capital-intensive forms of activity took place (OECD 2006).

The timely development of investment patterns has also played a role here. EU15 countries have benefited considerably from the market opening of the central and eastern European region, especially in the first half of the 1990s, while, starting from the late 1990s, both benefits and challenges have become more complex. These countries continue to benefit from market expansion in the region, although FDI trends to the EU8 show a shift towards production-sharing networks, a form of international division of labour in which relocation plays a decisive role. Within this framework, western multinationals benefit from the cheap sourcing from central and eastern European locations and use this to strengthen their market positions and competitiveness on the global level.

2.4.3. Predictions for future relocation potential

Estimates by different institutes vary greatly, but they all agree that the dynamics of offshoring would pick up substantially in the future. An overview of these estimates is presented in Table 1 (adapted from Galgóczi, Keune and Watt, 2006).

Such studies often rely on patchy evidence or bold assumptions about employer behaviour and often lack representativeness. As such, they need to be treated with caution.

A recent study by Forrester research (Takahashi, 2006) illustrates the large gap between actual facts and future expectations. Within Europe the UK was found to be the biggest services job exporter with 100,000 services jobs having been moved

by 2006 (for the whole of Europe 136,000). The forecast of the same study reckons that 1.2 million services jobs will move out of Europe by 2015, including 750,000 from the UK.

The sectoral impact could be much larger. In financial services, for example, predictions reckon on up to 20% of the financial services cost base being offshored by 2010.

Relocation has not up to now resulted in dramatic changes on European labour markets, at least where evidence about the overall impact is concerned.

Local and regional impacts have been serious and the structural effect is substantial, insofar as different labour market segments have been affected differently.

There is some evidence that high-skilled workers, who tend to be in a position that is complementary to low-cost competition from abroad, will profit from outsourcing³, while low-skilled labour, mostly in a substitutive position, is likely to lose out. There are signs of labour market tensions in this regard in the high-wage countries, illustrated by phenomena such as the growing segmentation of labour markets and the extension of precarious forms of work.

Table 1: studies on relocation and employment effects

Study author	Country/region	Sector	Time period	No. Jobs
Bardhan and Kroll	USA	All sectors	Long term	14 million. Note: maximum potential for offshoring
Deloitte research	USA	Financial services	2004-2010	20% of 'cost base'
EMCC	EU	all	2000-05	1.5% of all job losses. Note: Based on newspaper reports - questionable representativeness
Forrester	USA	IT services	15 years	3.3 million
Gartner	USA	IT services		1/10th IT jobs
ILO World Employment Report 2001	US and EU	Services		1-5% service jobs
McKinsey	US, EU, JP	all	One year	600.000
McKinsey June 2005	global	services		160 million (11%). Note: total potential; actual forecast 2003-2008: 2.6 million.
TUC	UK	Private services	Long term	150.000-750.000
UK treasury	EU	Services	2015	5 million
World Bank	G7	services	Long term	1-5% of total employment. Note: maximum potential for offshoring services (technically feasible and cost-savings of 30-40%)

x: WTO, 2005, OECD 2005.

Source: WTO, 2005, OECD 2005.

- 3 The EEAG report on the European Economy 2005 (p 44) refers to several studies in this respect (EEAG, 2005).

Predictions for future relocations sound more alarming as they forecast an acceleration of the process in the future. They most often refer to one side of the globalisation process only, namely, the number of jobs moved, while failing to calculate the jobs created. Meanwhile, structural pressures in the future will inevitably pick up.

3. WHAT UNIONS DO AND CAN DO IN ORDER TO MANAGE LOCATION COMPETITION IN A SOCIALLY SUSTAINABLE WAY

3.1. Principles of socially responsible location management

It is quite clear that increased capital mobility is not a temporary phenomenon and, despite convergence, wage and income differences in the world will remain substantial in the foreseeable future, while the pressures from global product and capital markets are unlikely to ease. Even if the eastern enlargement of the EU represents an important attempt to diminish regional differences, the convergence of the poor eastern European regions will take several decades and wage differences are bound to remain substantial in this period.

We have tried to show some characteristics of location competition and the pressures exerted by capital mobility on production locations, inducing restructuring waves and often pressing for concessions from workers.

Trade unions need to face these challenges – rather than hoping that they will disappear – and acknowledge that permanent change has become the reality in a global environment. It is precisely this unprecedented restructuring challenge that represents the central impact of global capital mobility that needs to be addressed not by trade unions alone but also by policy-makers on different levels of the economy.

There are two major dimensions of socially responsible location management under the circumstances of increased location competition induced by global capital mobility:

- fair distribution of the costs of restructuring;
- maintaining the competitiveness of the location through the ‘high-road’ approach in an advanced looking way.

First, accepting the necessity of change does not mean accepting a dictate from the employers. The costs of whatever restructuring is necessary should be borne equal-

ly by all parties (employers, workers and the state) and not by workers alone, as is mostly the case. Recently corporate profits and management incomes have been soaring in Europe and worldwide, while employee compensation is stagnating in the developed countries and, in the case of emerging economies, fails to keep pace with productivity gains. Employees should benefit from the gains of globalisation and should be compensated for the losses attached to it. 'Social damage reduction' is an elementary obligation of employers in cases where dismissals or company closures appear unavoidable.

A fair share of 'pains and gains' also means that employers and, to some extent, the state should provide the necessary conditions to enable employees to develop their ability to respond positively to change.

At the sectoral and national levels, efforts to upgrade the economy and labour force must be strengthened. This requires a *genuine industrial policy strategy* involving both generalised support for research and innovation (the horizontal dimension) and also specific sectoral ('vertical') policies, such as developing and supporting sectors like clean and renewable sources of energy, clean technologies, and environment-friendly transport. Support should aim to help the European economy to move up the ladder of international specialisation and focus on those sectors and activities where world demand is dynamic and where Europe can develop its comparative advantages, building on its profile of high wages but also a skilled labour force and advanced capital stock. Corresponding strategies on the national level are also needed, referring to all countries – whether high-wage or low-wage – in a convergence process (in this regard the national dimension of the Lisbon Strategy should be taken seriously).

In order to facilitate change there is a need for policies to balance flexibility and security, as well as lifelong learning strategies, for which responsibility has to be taken by all parties, namely, the state, the employer and the employee.

Secondly, an active, forward-looking strategy is needed in order to maintain and update the competitiveness of the production location. The principles of 'high-road' competition strategy should be applied, whereby the comparative advantages of the firm are exploited through innovation and investment, rather than the 'low road' of cost-cutting and social dumping strategies. To formulate a business strategy along these lines is, above all, the responsibility of the management, although employees can be partners in such strategies through information, consultation and participation. Co-operative corporate cultures can offer benefits in business efficiency and could serve as a basis for managing change.

Anticipating change does not mean simply receiving news on time about 'company closure or dismissal plans'. It is much more a question of a socially responsible location management (designed to prevent potential relocation) in order to keep the location viable through training, investment, and innovation conducted in conjunction with unions and works councils.

3.2. PRACTICAL EXAMPLES OF ATTEMPTS AT LOCATION MANAGEMENT

There are already some cases where maintaining the competitiveness of a location has been managed in a forward-looking way that has proved socially sustainable.

The case of the 'Auto 5000' model at Volkswagen's Wolfsburg plant could be seen as an initiative in this direction (Schumann et al. 2006). Although wages of 5000 Deutschmarks (ca 2500 Euro) – i.e. lower than the general company collective agreement – were offered for each of the 5000 new jobs (for which unemployed workers were recruited), the plan was accompanied by a qualification initiative and a work organisation model that made workers responsible for quality. The collective agreement of 2004 contained guarantees against dismissals for operational reasons up to 2011, an investment programme for German plants and no wage increases until 2007. Cost reduction programmes (e.g. agreements to cut costs with suppliers) and a new working system consisting of three shifts from Monday to Thursday were applied. The model goes beyond a 'traditional' concession-bargaining case, as the whole package contains several active location-management initiatives, from training measures through innovative work organisation methods to investments.

Employability agreements for managing outsourcing have been concluded at several firms already. ABN AMRO signed an employability agreement with the four unions regarding the outsourcing of services for 2004–2008. However, *"agreement was not reached on the employer's responsibility to sustain the same level of employment, quantitatively or qualitatively."* In 2003 ABN AMRO made a major outsourcing of IT services to EDS involving 500 transfers and also an outsourcing of insurance activities to Delta Lloyd (600 transfers) – 10% of the transferred employees used their 'right to return', many of these being older workers. In 2004, back-office activities were offshored to India with 184 jobs affected. 140 employees were transferred to the internal employability centre and the remainder to other positions within the bank. Influencing offshoring is above all a matter of anticipation

and timely information. None of the commitments was, however, actually able to prevent the offshoring project from taking place.

The offshoring charter of UNI trade union – a good practice example

The offshoring charter of the services union UNI lays down the basic framework on which socially responsible offshoring practices should be based. The most important points cover a wide range of issues from public policies through workers' involvement and labour standards to investment strategies.

Where public policy support is concerned, according to the charter, outsourcing should only follow after a proper public policy debate which has ensured that unions, governments and local community authorities are in full possession of the facts.

Offshoring should be the subject of consultation and negotiation with the relevant unions and works councils.

On employment security, the document calls for the avoidance of compulsory redundancy as a result of remote outsourcing or offshore outsourcing of work. Redeployment of displaced workers should be given priority with protection of career value and conditions of employment. Training or support in finding alternative jobs is necessary, if no other option remains.

Continuing financial savings should be partly invested in skill development to anticipate and better manage change and increase the adaptability of workers whose jobs are at risk.

Where labour standards at offshore destinations are concerned, they should abide by all the core ILO labour standards subject to monitoring by national trade unions and UNI. To prevent "a race to the bottom", agreements on decent wages and working conditions must prevail.

3.3. POTENTIAL STRATEGIES OF TRADE UNIONS TO DEAL WITH LOCATION COMPETITION

Potential strategies of trade unions can be classified along three major lines:

- Strategies to prevent relocation or offshoring and secure the long-term viability of the location;
- Dealing with the social consequences of unavoidable relocation, downscaling cases;

- Building networks of international solidarity among workers to decrease the probability of employer strategies to play off employees at different locations against each other.

Strategies to prevent relocation or offshoring and secure the long-term viability of the location.

This first pillar is likely to be the most important strategy element in enabling trade unions to face the challenges of capital mobility and location competition. This is at the same time the most complex issue and the most difficult to put into practice, insofar as the balance of power has shifted to the detriment of labour in the recent period.

Reducing the incentives for relocation can be done in a defensive or an offensive way, corresponding to high- or low-road strategies (see above). Elements of concession bargaining, whereby lower wages and longer working time is accepted in exchange for greater stability of the workplace, are also preventive measures designed to avoid relocation or downscaling. These are defensive measures that, given the current balance of power between employers and employees, cannot always be avoided. Even in such cases, other elements of the agreement should have a more active, future-oriented character, such as, for example, training and investment plans⁴.

In order to maintain the long-term competitiveness of the location in a socially sustainable way, more offensive strategies are needed.

A future-oriented location management strategy should thus be backed up by agreements between the management and employee representatives for the long-term viability of the location. Such agreements should necessarily be based on timely information and consultation, while also entailing a co-determination aspect. They can then result in a well-funded joint strategy that anticipates future challenges, based on the examination of alternative scenarios preferably several years ahead. Agreements like this could comprise traditional bargaining issues but should, more importantly, ensure the upgrading of workers' skills by further training to increase productivity in a sustainable way, including also work organisation issues, innovation, R&D and future investments.

4 In this regard we recall the Siemens case, where a comprehensive agreement had been concluded in 2005 to avoid relocation plans of the mobile phone unit to Hungary (including concession bargaining elements, but also investment and training commitments). The bitter experience was that, even though the imminent relocation was avoided, as a result of a buyout of the unit by a Taiwanese firm, workplaces fell victim to a bankruptcy procedure.

This model is possible only on the basis of a strong participatory culture and a trustful employer-employee relationship (co-operative enterprise culture). Unfortunately this is often not the case. But this objective still could offer guidance in cases where the framework of such co-operative enterprise culture still remains to be created.

Dealing with the social consequences of unavoidable relocation, downscaling cases.

In many cases companies are managed in such a way that the 'official announcement' on restructuring or relocation decisions to workers' representatives takes place when the competitive edge of the location has already been weakened by anticipation and management failures.

The restructuring plan is thus unveiled to workers' representatives with a defined solution of cost-cutting and downscaling that rules out alternative solutions. In other words, employee representatives are presented with a *fait accompli* according to which relocation and a consequent downscaling or company closure is announced as inevitable.

Even in such cases, a number of policy alternatives are available to reduce the negative impacts of actual cases of relocation. They imply that both the company and society take some responsibility for the fate of the workers affected. Appropriate social plans should accompany company closures or mass dismissals, the costs of which should express the true social costs of such measures, thereby also serving to increase the exit costs for employers that have to be taken into account in their business calculations (the example of the AEG in Nuremberg shows this).

Within this framework, active help for employees during their labour market transition should be provided by the employer. Advance notification of workers is an important precondition, as it provides workers with a head start in seeking new jobs and provides a timeframe for support measures for workers. This allows (public) employment offices and sectoral readjustment schemes to liaise with the company and organise adjustment programmes. Every retrenched worker should have a right to readjustment support and European policy-makers and European social dialogue should translate this principle into 'hard guarantees'. The proposed European Globalisation Adjustment Fund should be expanded and used to fund innovation measures at local level. Plans for job counselling, retraining and job schemes in other firms from the moment a worker receives notice of retrenchment should be arranged in active cooperation with workers' representatives. Such schemes could be financed in such a way that employers bear a share of the costs, while European

structural funds could also be used to support social partner schemes that ensure a right to reinsertion in the labour market.

Building networks of international solidarity among workers to prevent them from being played off against each other.

Improving labour conditions in low-wage countries is a general objective in the effort to avoid social dumping. On the global level the core ILO labour standards apply and should be monitored continuously via international cooperation among trade unions and supported by international framework agreements, using also instruments such as codes of conduct and principles of corporate social responsibility.

Within Europe a wide range of legal and institutional arrangements are available, from elements of European legislation to wide-scale co-operation among trade unions. A European framework for common minimum social and labour standards should be drawn up in the future.

Different levels of networks among workers' representatives should be developed to prevent location competition from being used by employers to play them off against each other inducing a downward spiral of social standards.

One important factor in countering such tendencies is the strengthening of information and consultation networks. European works councils and structures beyond (such as, for example, the European Employee Forum of General Motors) can co-ordinate employee strategies to deal with restructuring programmes and relocation threats, building on international solidarity. Such efforts proved successful in the past in hammering out restructuring plans in which no location had to be closed down ('share the pain, share the gain').

Moreover, initiatives such as the European Restructuring Forum could be helpful in implementing mechanisms for applying and monitoring existing guidelines on restructuring, as could a discussion on best practices as set out in the existing guidelines on restructuring, thereby promoting best practice in such a way that European works councils can become more effective in acknowledging their role as agents for change.

In dealing with a relocation threat, often it is enough if trade unions in different countries keep one another regularly informed, but more international co-operation is needed as some positive examples already show (for example, the Vienna Memorandum on co-operation between CEE metalworkers unions).

In addition, trade unions, recognising that their bargaining outcomes are becoming increasingly interrelated, could step up their *coordination of collective bar-*

gaining activities, through the exchange of information, as well as cross-border agenda-setting. Such coordination can avoid the drifting apart – in either direction – of wage and productivity trends within Europe, preventing a race to the bottom on wages and working conditions and permitting a gradual upward convergence of income levels in the newly unified Europe. At present, information and reporting systems are being developed at the ETUC and within the European Industry Federations but these would require substantial strengthening if they are to meet the objectives of coordination.

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THE LOGIC OF THE INTERNAL MARKET VERSUS SOCIAL STANDARDS

FROM A DEFENSIVE TO AN OFFENSIVE BATTLE ABOUT THE FUTURE OF SOCIAL EUROPE

Wolfgang Kowalsky

INTRODUCTION: GROWING ROLE OF THE EUROPEAN PARLIAMENT (EP) AND THE EUROPEAN TRADE UNION CONFEDERATION (ETUC)

The question of services in the internal market goes beyond the significance of the issue itself and is of considerable importance for the general position of the European Parliament (EP) within the institutional triangle and for the voice of the European trade union movement within a broader European public debate. From the very beginning, the draft directive on services in the internal market, published on 13 January 2004 by Commissioner Bolkestein, raised serious concerns among trade unions all over Europe. The proposals would have accelerated deregulation, seriously eroded workers' rights and protection, and damaged the supply of essential services to European citizens. The 'Bolkestein' Services Directive threatened to encourage widespread social dumping by introducing the country of origin principle as the key driver in opening up markets, and embodied an unprecedented neoliberal attack on the European Social Model. The discussion and battle on the services directive was a fight about the future of Social Europe, on the ways of ensuring a social embedding, a social dimension of the internal market, in other words: about the protection of the social *acquis* against liberalisation and the freedom to provide services linked to ruinous social competition and regime competition.

When in December 2006 the new Services Directive was signed, the content and the method was substantially modified. The objective is still the removal of protectionist obstacles, but the "country of origin principle" was buried and important sectors like health and social services were removed from its scope. The key actor of change has been the EP. During the last years, the Parliament – being the only

directly elected supranational assembly with real legislative powers – has grown in stature and confidence; and it has acquired a constitutive role in the life of the Union.

For the first time ever the ETUC has succeeded in ensuring that a draft Directive has been brought to the attention of the European public and the media prior to being finally approved (cf. Biesenbender 2007, 39). The ETUC maintained systematic and multiple contacts on all levels to the European Parliament's key actors during the whole process. It took 2 years before the first hurdle in the legislative process was passed on 16 February 2006, when the EP voted on the first reading of the proposed Directive on services in the internal market (hereafter referred to as the Services Directive) and introduced substantial amendments to the original proposal. A battle lasting nearly three years ended with a political victory for the EP and the ETUC.

The Services Directive is the first case where there has been a broad-based, public discussion of a central EU internal market and labour relations issue (see Kowalsky 2006a). It is one that highlights basic issues concerning economic versus social regulation, and negative versus positive integration (see Scharpf 1996). The trade unions have succeeded in building broad, transnational, cross-party coalitions and influencing a key piece of political legislation; and the – centre-right – EP has demonstrated its growing importance. This was not an easy exercise: The most important action to make the ETUC campaign efficient and sustainable was to link it to the daily life of workers and citizens. The articulation link was the threat of social, fiscal, environmental and economic dumping, the threat of falling into a vicious circle, entering a downwards spiral, in particular for vulnerable and precarious workers in the services sector, but also for public service workers. The underlying message of the campaign was to resist, to mobilise against the directive and in favour of a Europe that has to protect against globalisation, has to regulate free market forces. This message mobilised "l'imaginaire social" and resulted in particular in the readiness to join demonstrations against the directive. The supporters of the initial proposal were unable to convince citizens that the social dimension of the internal market would survive. The widespread feeling of economic, social and professional insecurity and fragmentation has given rise to a distrust of political discourses and paved the way for appeals against social injustice, a feeling strongly linked to the fear of losing the individual liberty to construct one's own personal way of life. The perception of globalisation leading to delocalisation, job losses and precarious jobs replacing more secure jobs, and the perception of Europe as a trojan horse of globalisation strengthened the feeling of individual vulnerability (Guibert et al. 2006).

The issue could well turn out to be a turning point in shaping the dynamics of EU policy-making processes, following the Constitution debacle in France and the Netherlands. But it also reveals new, subtle lines of tension, including East-West differences, in particular in the EP and the Council, and raises questions about the current emphasis on negative integration – i.e. the removal of barriers, the prohibition of restrictions and dismantling of rights without the establishment of European social regulations as a counterbalance. The argument that harmonisation is scarcely possible is frequently used to underpin this approach.

It cannot be denied that the EP has gained in power and the ETUC as well has gained in power, visibility and credibility. Within the EP the usual configuration of 'government versus opposition' does not hold, and compromises have to be found if one half of Europe is not to be systematically excluded from the legislative process. The 'real masters' of the EU have given the lie to the myth that everything is decided by a huge bureaucracy of dubious political legitimacy in the form of the European Commission. With the increased power of the EP, the European institutional system has become more democratic. The fronts within the EP are variously aligned: right versus left, but also Europhiles versus Eurosceptics, MEPs from Member States that are net contributors versus those from Member States that are net beneficiaries, euro group versus non-euro group, etc.

Before we look at the amendments passed by the EP, it is helpful to look more closely at the objectives of the proposed Services Directive and its background as well as the parallel discussions in the EP and the Council, before drawing preliminary conclusions.

THE COMMISSION'S STARTING POINT

The Commission's starting point was the perception that in the case of many services, protectionist obstacles were unnecessarily hindering or even preventing cross-border operations. It is, indeed, not difficult to find many examples of deliberate bureaucratic obstacles. There are a number of obstacles preventing a service provider both from establishing himself in another Member State and also from providing services on a temporary basis. Rather than merely drawing up a list of individual cases, it would, however, have been more helpful to carry out a qualitative and quantitative assessment, but this the Commission has not done.

The Commission during the whole process (at least until the last weeks before the EP's first reading) never had a clear view of a balanced approach of national deregulation compensated by European re-regulation – the latter was simply for-

gotten in a voluntary attempt to dismantle the social dimension of the internal market¹. The extremist internal market fanaticism of some civil servants closely linked to Commissioner Bolkestein encouraged extremists' anti-internal market attacks which in many cases disguised forms of national protectionism. Regulation via market mechanisms sets various national legal systems in competition with one another instead of replacing these with a uniform Community system or at least creating minimum Community standards (as with core labour standards).

In the discussion on the European Constitution the 'Bolkestein Directive' was used as a bogeyman by many opponents of the Constitution to argue for a 'No' vote². In the campaign against the European Constitution in the spring of 2005, xenophobic anecdotes about 'Polish plumbers' were deployed in the argument³. The Directive was regarded by many opponents of the Constitution as a welcome opportunity to denounce the (apparent or actual) neoliberal tendencies of the Commission and to torpedo the Constitution (see Kowalsky 2006b).

THE PHILOSOPHICAL BACKGROUND TO THE EUROPEAN COMMISSION'S PROPOSAL

This background section contains some reflections on the initial aims and rationale of the Directive, as well as an examination of the key points of the Commission proposal and an explanation of why these fuelled such fear, uncertainty and anger. On 13 January 2004 the Commission put forward a proposal for a Directive on services in the internal market that quickly became known as the 'Bolkestein Directive' – after Frits Bolkestein, the internal market Commissioner at the time. The proposal was

- 1 Even after the adoption of the directive, the Commission continues to have difficulties with a balanced view: "Facilitating ... adjustment processes in EMU by promoting competition should be an essential component of the Internal Market of the 21st century." The following tools are proposed: "More flexible wage and price setting behaviour, ... more flexible labour markets..., wage adjustments to changing market conditions..., increase the responsiveness of domestic prices and wages to shocks..., labour mobility as tool of adjustment in EMU..." (Commission 2007, 14, 17, 22). The lesson has not yet been fully learnt...
- 2 "According to Stéphane Rozès, 'in one week, the threat represented by the proposed directive was to create a short circuit between French daily life and the European debate'. This fuse blown, a drop of 14% in favourable voting intentions was recorded in 20 days..."; "From the controversy about the Bolkestein directive and the first two polls placing the NO before the YES, and for the last two months of the campaign in mid-March, Europe becomes the first subject of our fellow citizens' conversations, even before work, spare-time activities and family' according to Stéphane Rozès, who relies on a CSA survey" (Gerstlé 2006, 18, 2).
- 3 In Germany it was above all the meat industry that was regarded as problematic as a result of a dramatic spread of low wages in that sector.

immediately linked to fears concerning enlargement, low-wage threats ('dumping'), the European Constitution ('Polish plumbers'), the *Vaxholm-Laval*, *Viking* and *Irish Ferries* cases, i.e. a cocktail of controversial political, social and economic issues, the handling of which revealed a total lack of political sensitivity on the part of the Commission.

It is interesting to look at what Mr Bolkestein considered to be the underlying 'philosophy' of European integration. In a speech at the Humboldt University in Berlin on 18 October 2002 he identified three 'core tasks' for the EU, namely 'removing obstacles' to economic activity, 'solving cross-border problems' and 'utilising economies of scale'. He regarded the social dimension as superfluous, explicitly considering the possibility of 'renationalising' the social sector, including the Cohesion and Structural Funds. His view of Europe was based solely on the internal market and competition policy.

Commission President José Manuel Barroso did not go quite as far as this, but he, too, distanced himself from Delors' 'old-style single market of legal requirements and harmonisation', which 'in its current form does not, and perhaps cannot, devote sufficient attention to the needs of today's companies' (Barroso 2005). Barroso himself described this rejection of the Community method as 'heresy' but justified it in the following terms: 'The heterogeneity of services means that it would be totally impracticable to legislate for each service. (...) Therefore, if we are to have a single market for services, it will have to be largely on the basis of the country of origin principle'. This argument does not make immediate sense. When Delors set out to create the internal market, the heterogeneity of goods was just as great, and he could similarly have taken the easy route of opting for the country of origin principle; however he deliberately chose the Community method. In the White Paper on the completion of the single market of 1985, not less than 279 legislative measures were proposed in order to remove obstacles to internal trade, with a timetable that envisaged completion of the single market by 31 December 1992.

To make the point clear: Faced with the challenge of removing national protectionist obstacles, the Commission had at least three *possible options*: introduction of European minimum standards, in other words, partial or complete harmonisation; listing of the main obstacles that are forbidden; or adoption of the 'country of origin' principle. The Commission apparently never had an in depth discussion of the pros and cons of these methods, but simply opted for the last of these, for obvious ideologically inspired reasons. The Commission has failed to carry out any serious assessment of the likely impact of the proposed Directive. It has promised to draw up an *ex-post* evaluation of the social impact (European Commission 2004a:

41), but is very wisely remaining silent on what it would do if such an evaluation proved to be negative.

The definition of internal market barriers is central to the Commission's approach; it is a comprehensive definition. Article 4(7) of the Directive includes 'collective rules of professional associations' under the heading 'Requirements', so that these are regarded as 'obstacles' to the internal market that have to be removed. The EP disagreed with this attempt of market purists to get rid of the social dimension and has clearly stated that labour regulations may not be affected by this Directive.

Logically enough, from the point of view of the Commission, the elimination of nearly all procedures was proposed (Articles 14 "Prohibited requirements", art. 21 against "discriminatory provisions", art. 29 to "remove all total prohibitions on commercial communications by the regulated professions"...) – in other words, the baby is thrown out with the bathwater. This approach was perceived as disproportionate, short-sighted and unbalanced and contradicts the approach adopted hitherto, which was based on minimum harmonisation and complementary mutual recognition. Harmonisation and the creation of minimum standards should not be a side effect but a central pillar in the creation of the internal market. They should not be regarded as a 'last resort' (European Commission 2004a: 19) but as part of a policy mix aimed at creating an effective European market for services. With this in mind, the aim should not be full harmonisation but rather the achievement of a balanced mix of harmonisation and mutual recognition.

THE CORE QUESTION: 'COUNTRY OF ORIGIN PRINCIPLE' INSTEAD OF HARMONISATION AND MINIMUM STANDARDS

What the Commission was trying to achieve with its proposal was to replace a harmonisation-based approach, which has been applied since the early days of the internal market, with the 'country of origin principle', which constituted the core of the proposed Services Directive. In its first reading, the EP removed the 'country of origin principle' as it was not convinced by the Commission's approach in this respect which could create market distortions and unfair regime competition amongst the social and fiscal systems of the Member States.

Critics objected that the country of origin principle would distort competition, as it would result in discrimination against national service providers, but the Commission was not interested in such arguments. The host Member State would not be allowed to take any steps to create a level playing field and protect national service providers against unfair competition from providers from other Member States

who would have to fulfil less strict requirements. This new situation would create a not inconsiderable incentive for service providers to select the Member State with the least regulation as their country of origin in order to give themselves a competitive edge. In order to avoid a massive transfer of places of establishment, critics regarded it as more appropriate to reject the country of origin principle and retain the possibility of Community standards being laid down.

There are many reasons why the EP removed the country of origin principle. First, it would have resulted in the co-existence of 25 or 28 different legal systems within a single country. Service providers would only be subject to the regulations of their country of origin, which would be the only authority controlling the services provided. The country of origin principle would have removed all compulsory requirements related to establishment, approval and registration in the case of cross-border activities and would therefore have represented an incentive for service providers to change their place of establishment in order to evade collective agreements, environmental, labour and health standards and qualification requirements. The result would have been a downward spiralling of standards, in particular where social and environmental regulations were concerned, with various systems being set in competition with each other. There would then have been no uniform legal regulations applicable within a Member State – service providers would, as it were, bring their own national regulations with them, and enhancing regime competition by this approach.

The country of origin principle consists of an extrapolation of individual decisions by the European Court of Justice and represents a clear abandonment of the Community method on which Delors' internal market was based. It was the consequence of the broad public debate initiated by trade unions that the EP had an in depth discussion on the services directive. The debate was initially dominated by ideological concerns and partisan smallness, with a clear left-right split, and it was only during the final weeks before the plenary vote that this ideological view of a few key players was replaced by a more rational discussion – in spite of strong neoliberal pressure.

EP KEY AMENDMENT ON WORKING CONDITIONS AND WAGES: THE CASE OF "POSTING OF WORKERS"

According to the Commission proposal, the Posted Workers Directive was exempted from the country of origin principle and should not be affected by the Services Directive. Yet major problems arose from the fact that the proposed Services Di-

rective would have virtually destroyed the host country's scope to effectively monitor compliance with the stipulated conditions for posted workers (ban on demanding notification, registration, representation and keeping of employment documents by posting firms). This was a key issue that threatened entirely to undermine the effectiveness of the Posted Workers Directive.

The EP's amendments cut through all these issues, by stating that labour law, collective bargaining, etc are excluded, implying that the situation would very much remain as it is today, with core work and wage conditions being governed by the host country (as with environment, health and safety, consumer protection, etc). Whereas the basic labour laws regulating the posted workers' employment contract would continue to be regulated by the home country as today, the risk is that the current situation with very weak and ineffective control and enforcement of the posted workers' rights in the host countries would persist.

EP KEY AMENDMENTS ON PUBLIC SERVICES (SERVICES OF GENERAL INTEREST) TO AVOID A PUSH FOR LIBERALISATION/PRIVATISATION AND ON FURTHER REQUIREMENTS

The provisions on the scope of the original Services Directive proposal were amended – in some cases radically – by the EP. The Commission's view was that all services of general economic interest should be covered by the Directive except in cases where they were provided free of charge and directly by public institutions. It could be expected that there would be considerable pressure for privatisation/liberalisation of public services, but the EP fully excluded services of general interest (SGI) from the scope of the Directive and partly excluded also services of general economic interest (SGEI) – mainly network industries. The amended text contains explicit exclusions of health services – public and private – and social services. High-value services of general interest remain an integral part of the European social model⁴.

The Commission had the intention to deal with a number of further issues at least partially, but the EP was not persuaded to follow the Commission line:

4 For this reason, the ETUC launched a petition on favour of SGI/SGEI's <http://www.petitionpublicservice.eu/> (see Kowalsky 2006c).

- The transport sector, especially ports, was originally not explicitly excluded from the scope of the Directive; the EP has now removed transport, including urban transport and ports, from its scope.
- Article 2(2) states that the Directive does not apply to *tax* matters. But even if tax is not affected, there could be strengthened pressure on taxation systems. Yet, even today posted workers do not pay taxes and social security in the host country for the first year.
- Closer collaboration and mutual support between *national administrations* was originally provided for in Article 37. The obligation to provide mutual support may, in itself, be acceptable and represent a step in the right direction, but the suggested method contradicts the principle of subsidiarity, which demands that monitoring be carried out as close as possible to the place of provision of a service. The EP amended this chapter on administrative cooperation and single points of contact recognising a clear role for the authorities of the host Member State to conduct checks and inspections.
- In terms of *consumer protection*, the Commission proposal was unclear as to whether European minimum standards alone would apply or also – possibly higher – national standards. If the country of origin principle were to apply in this context, the result could have been a ‘race to the bottom’, with minimum standards effectively becoming maximum standards. The EP clearly removed consumer protection from the scope of the Directive, thus re-establishing the country of destination principle (Article 3(3)).
- The Services Directive was originally intended to apply to *temporary workers*, but the EP totally excluded temporary agency work from the Directive.
- The original proposal could have resulted in Community *environmental standards*, which were originally conceived as minimum standards, becoming maximum standards, thus triggering a downwards spiral. On several occasions the EP has explicitly recognised environmental protection as a matter of overriding public interest, thus removing all uncertainty.

THE EXTRAORDINARY SCRUTINISING CAPACITIES OF THE EUROPEAN PARLIAMENT

Before focusing on the changes implied by the EP compromise, I will draw attention to important aspects of the background of the EP’s crucial role and the processes involved. Part of the ETUC’s success was its active involvement in the EP’s search for a compromise, organising major demonstrations and in parallel presenting seven

'key demands' that had substantial implications as they actually formed the main lines of the outcome⁵.

Although from a formal and institutional view the EP played a pivotal role in the redraft of the directive, the ETUC's contribution to this success was essential and its deep involvement in the EP's search for a compromise was a major innovation in the relationship between the EP and the ETUC. In February 2004 it nominated Evelyne Gebhardt (Party of European Socialists, PES) as rapporteur for the Legal and Internal Market Committee and Anne van Lancker (PES) for the Employment Committee. Following the elections to the European Parliament on 10-13 June 2004, a centre-right majority was formed. On 11 November 2004, both committees organised a joint hearing with experts and representatives of the social partners. In January 2005, Evelyne Gebhardt presented her working document to the Committee. In parallel to the start of the deliberations in the EP committees the ETUC organised a first major Euro-demonstration to say "No to the Bolkestein Directive" assembling more than 75 000 people on 19 March 2005 in Brussels.

After intense discussions, the two socialist draftswomen issued their reports. The EP discussed the issue for a full two years, drawing up proposed improvements only to reject them again and again. The Employment Committee of the EP voted on 12 July 2005 by a large majority, including support from the Popular Party, the Liberals, the Greens and the Nordic Left, in favour of nearly all the amendments from its draftswoman Anne Van Lancker. This vote was a clear victory for the left, and the vote in the Internal Market Committee (22 November 2005) went in favour of the right, with a majority consisting of the EPP- ALDE (Alliance of Liberals and Democrats for Europe)-UEN (Union for Europe of the Nations) prevailing and establishing the country of origin principle firmly in the Directive, even if it underwent a cosmetic change of name ('internal market clause').

Far-sighted elements amongst both the center-right and the center-left realised before the very end of the process that they had a unique opportunity to strengthen the position of the EP as key European player before the plenary vote and to achieve a stronger profile vis-à-vis the other European institutions. They postponed

5 The ETUC asked for: 1. exclusion of labour law, 2. clear reference to the fundamental rights, 3. full exclusion of sensitive sectors such as temporary work agencies, 4. exclusion of SGEI's, 5. recognition of overriding reasons of public interest, 6. deletion of enforcement, supervision and surveillance requirements from the list of prohibited requirements, 7. deletion of the Country of Origin Principle. The positions of the Economic and Social Committee and of the Committee of Regions were both ambiguous, supporting the general lines of the proposal, but critical to many details (Biesenbender 2007, 71).

the plenary vote scheduled for December 2005 to February 2006 to gain time for serious negotiations between the main actors.

On 16 February 2006 the plenary vote took place. With the first reading of the Directive in the EP, the first hurdle had been overcome. In the weeks leading up to the vote there had been intensive negotiations between the two major parties that had ended in a compromise that removed the main points of contention, including the country of origin principle. Further significant changes included complete exclusion of individual and collective labour law and also posting, the removal of sensitive sectors such as temporary work agencies and private security services, incorporation of the 'Monti clause' on respecting basic rights, removal of services of general interest and certain services of general economic interest such as health care.

THE REACTION OF THE EUROPEAN COMMISSION: STATIC WARFARE

The EP has seldom scrutinised an individual Directive in such detail and at such length. The Commission as well as the Council (representing the governments of the Member States) faced major problems in reaching their positions. On 2 March 2006, the Commission declared in a high level Council Working Group that it would not accept the removal of temporary work agencies and private security services. On 8 March Martin Power, head of internal market Commissioner McCreevy's cabinet, confirmed the intention to unravel the EP compromise. After this declaration the EPP Group President Hans-Gert Pöttering, recalling that the text adopted was backed by EPP, PES and ALDE groups, sounded a note of warning: if the compromise were to be destroyed, those who did this should be aware of the responsibility they had taken on. The Commission declarations would seem to have been merely a case of testing the waters. In the end, the Commission kept close to the EP amendments in its revised proposal on 4 April 2006.

THE REACTION OF THE MEMBER STATES: THE KEY ROLE OF THE AUSTRIAN PRESIDENCY INSIDE THE COUNCIL

The Council and the Commission were active in supporting the initial proposal as long as possible to counter the campaign against the initial Bolkestein draft. Following the tabling of the Commission's proposal on 4 April 2006, the Council entered the first reading phase. Within the Council, France, in particular, was amongst

the critics of the Directive. On 10 February 2006 however six Member States (CZ, ES, HU, NL, PL, UK) came out with a statement against any 'watering down' of the Directive. The eight new central and eastern European Member States together with Finland, the Netherlands and the UK felt that the EP compromise had gone too far. Poland was leading opposition to the compromise, claiming that a majority of Member States were unhappy with it, whereas the Austrian EU presidency was seeking political backing. The Austrian presidency clearly realised that the directive was enforceable *only* on the basis of the EP's compromise amendments.

The European Council on 23-24 March did, indeed, display a surprising degree of unity, stating that it 'welcomes the European Parliament's vote', 'takes good note of the Commission's intention to base the amending proposal largely on the outcome of the EP's first reading and expresses the hope that the institutions will be able to swiftly conclude the legislative process'. The informal Council of Ministers in Graz on 22 April 2006 for the first time invited a parliamentary delegation to attend and set an ambitious goal of a political agreement at the following Competitiveness Council. Bartenstein stressed: 'In the end there will be a Services Directive based on this (i.e., EP) proposal, or there won't be one at all'. The political agreement on the Services Directive reached by the Council on 29 May is basically in line with the positions adopted by the European Parliament (16 February 2006) and the Commission (4 April 2006). The rest was parliamentary routine: On 15 November 2006, the European Parliament (EP) approved at second reading the modified Services Directive, burying once and for all the initial Bolkestein proposal.

THE EUROPE-WIDE PUBLIC CAMPAIGN OF THE ETUC

This outcome is a success story for the European trade union movement, and an example of good trade union cooperation with the EP. The removal of protectionist obstacles to the creation of a single internal market for services is a goal that is generally supported by the ETUC, as well as by the two main EP rapporteurs⁶. However, the ETUC would have preferred a different approach: a Commission identifying the obstacles (by means of a screening process) before proposing the Directive. It regretted that the Commission – in contravention of the clear requirements of the Treaties (Article 138 of the EC Treaty) – had failed to consult the social partners in

6 The first basic official position was taken on 17/18 March 2004 by the executive committee of the ETUC, and this provided the basis for PR work to begin. Most other trade unions followed suit with a greater or lesser degree of delay.

advance. The proposal had been tabled without previous publication of a Green or White Paper.

The ETUC underlined its basic position that any progress with the internal market must be linked to progress in the fields of social protection, workers rights and working conditions. The ETUC was critical of the original draft Directive because it would have constituted a massive undermining of existing industrial relations systems and collective agreements – at both sectoral and cross-sectoral level. The ETUC was calling

1. for the entire health sector to be exempted from application of the Services Directive, as otherwise deregulation and liberalisation of health services is to be feared without any previous policy decision having been made in this respect;
2. in addition, for social services, education, culture and audiovisual services as well as water distribution services to be excluded;
3. for temporary work agencies and posting of workers to be completely removed from the scope of the proposed Directive.

Generally speaking, social and labour legislation and collective agreements should not be regarded as obstacles to free movement.

The ETUC initiated a wide-ranging public campaign on the issue. There was lengthy public debate in France, Belgium and Sweden, as well as in Germany. The many questions, problems and difficulties of definition – not just of a legal nature – that the draft Directive has thrown up resulted in a petition against it and several demonstrations, for example on 5 June 2004 in Brussels under the motto 'Non à la Directive Bolkestein – Oui à l'Europe sociale' ('No to the Bolkestein Directive – Yes to Social Europe') or on 25 November 2004, again in Brussels, in the run-up to the Competitiveness Council – this time under the banner 'Bolkestein Directive = Frankenstein Directive'⁷. The demonstration with 75 000 participants that took place on the occasion of the employment summit in Brussels on 19 March 2005 under the motto 'More and Better Jobs – Defend Social Europe – Stop Bolkestein' represented one high point in the ETUC campaign and mobilisation of popular opinion against the Directive.

7 As early as May 2004 the Belgian trade unions distributed pamphlets against the Directive: "The Bolkestein Directive: No!", because they regarded it as an ultra-liberal liberalisation and privatisation measure aimed at undermining the European social model. The spokesman for Commissioner Bolkestein responded by attacking the Belgian unions (on 3rd June on Belgian radio), referring to them as "liars", and the pamphlets as "scribbles" and deliberately associating them with the extreme right-wing "Front National". This attack resulted in the ETUC stepping up its campaign and repeating its opposition to the Directive in its current form on 9th/10th June 2004. The executive committee condemned the attack by the Commission spokesman and called on Member States to ensure that the social dimension was preserved.

The ETUC thanked the Employment Committee, and in particular Ms Van Lancker, for its vote on 12 July 2005 and the excellent work they did to protect workers' interests. In contrast the ETUC strongly condemned the outcome of the vote on the draft Services Directive of 22 November 2005 in the leading Internal Market Committee of the EP. This committee rejected key amendments proposed by the draftsman Evelyn Gebhardt, which went in the right direction and excluded, from the outset, labour relations and services of general interest from the scope of the directive. The Committee confirmed the initial proposal with a new name and with a few new accents, as if the whole long debate had not taken place.

Intense negotiations followed this very controversial vote and the ETUC intensified its pressure to postpone the plenary vote to gain time to find a real compromise. The ETUC organised a second major Euro-demonstration in Strasbourg on 14 February 2006 on the very day of the discussion in the EP plenary. This demonstration was echoed in the debates and the vote on 16 February 2006. The EP then approved, by a large majority, the compromise reached by the main political groups in the Parliament, at the same time burying the initial Bolkestein proposal and putting a new text in its place⁸. When the EP approved this package of compromises (at its first reading), the ETUC regarded this as 'a major victory for European citizens and workers', because the majority of the trade unions' demands were met⁹:

- the country of origin principle was abolished, enabling Member States to exercise better supervision and to apply national rules to protect the public interest;
- labour law was excluded, and in particular issues linked to the posting of workers;
- fundamental rights to collective bargaining and action were respected;
- services of general interest and some services of general economic interest, such as healthcare and social services were excluded;
- sensitive sectors, such as temporary work agencies and private security services were excluded.

The ETUC continued its campaign. The ETUC welcomed support for the compromise from the Commission and then the Council in its first reading, but criticised the introduction by the Council of some ambiguous language with regard to the

8 The decisive positive policy input to reformulate the article 16 was delivered by the ETUC (Biesenbender 2007, 87). In general terms the policy input of the ETUC can be clearly recognised in the policy output.

9 Biesenbender (2007, 76) comes to the conclusion that in particular all trade union demands have been fulfilled.

most sensitive issues, such as the exclusion of labour law and respect for fundamental rights. The European People's Party (EPP) and the Alliance of Liberals and Democrats for Europe (ALDE) members did not support proposals to clarify those ambiguities during the second reading (IMCO vote on 24 October 2006). Although the Commission has tried to meet the demands for clarification by coming up with a declaration accompanying the adoption of the Directive (in EP plenary on 15 November 2006), the ETUC regrets that the EP neglected to pursue its democratic role to the full, up to the end of the process. The directive was signed at a public ceremony in the EP on 12 December 2006 by the Presidents of the EP and the Council.

CONCLUSIONS

The controversy triggered by this Directive was particularly heated as it is clearly based on differing views of what European integration is all about. Behind it lies disagreement between those who see the internal market as an instrument for achieving goals enshrined in the Constitution such as full employment, a social market economy, a high degree of social protection, and those who see the internal market as an end in itself. In other words, it is a question of whether there is to be an internal market with a social dimension or merely a glorified free-trade zone. The outcome of this disagreement was uncertain until the EP's first reading, but seldom has controversy related to a legislative proposal been so clearly linked with the struggle to shape a European social model. The EP underlined its growing role in the institutional set-up¹⁰.

The Directive was far from being an example of 'better regulation' and required considerable clarification. Ever since the proposal had first been tabled, the Prodi Commission had been on the defensive, and the Barroso Commission turned out to be just as incapable of reacting to the public criticism as its predecessor. It would have been easy to withdraw the proposal and table a new and better one, but the Commission was not in a position to do this. In response to the growing public debate about the Services Directive, the Commission simply redoubled its marketing and lobbying activities – in striking contrast to its lack of activity with regard to the European Constitution. Even an initial examination of the original proposal reveals that there was no proper balance between the creation of an economic internal market and advancement of the social dimension. The bargain struck between De-

10 Josep Borrell went so far to claim that the EP has used its capacity for legislative initiative which from a formal point of view it does not have (speech 15/01/2007).

lors and the ETUC (Kowalsky 1999: 127) seems to have been abandoned. This historic compromise took the form of an assurance that the internal market would be accompanied by a raft of workplace regulations combined with a social dialogue, an ambitious programme to achieve equality of opportunity between men and women, a social policy programme, the strengthening of basic social rights and the creation of a clearly defined social dimension (Community Charter of the Fundamental Social Rights of Workers; Kowalsky 1999: 132ff). Whether this deal would survive had been unclear, but the EP confirmed it with its clear vote.

Within the Council, there was an implacable confrontation between two camps (the one supporting the original proposal, the other opposing it), and any work actually carried out was mainly of a technical nature. Since the two 'No' votes in the referendums on the European Constitution, the institutions had been weakened (the Commission was weakened by its market fundamentalism and the Council lost influence in the wake of the negative referendums on the Constitution); and the unsatisfactory handling of the 2007-2013 financial perspectives did little to help. Like two rabbits staring at a snake, both institutions were transfixed by the EP, which was the only body that was in a position to unravel the Gordian knot. After two years of intensive debate the EP, in its first reading, introduced fundamental changes to the Commission's proposal.

The decision the Commission and Council faced was either to accept the EP compromise and make swift adoption possible, or to allow the controversy to flare up again, with the concomitant danger that the entire Services Directive will be blocked or even rejected by the EP at the second reading stage. The Austrian presidency played an important role by intending to push forward the discussion in a bid to reach political consensus. The Council in the end – incidentally with the support of CEEP (European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest) and UEAPME (the European Association of Craft, Small and Medium-sized Enterprises) – accepted the core elements of the EP proposal. This is remarkable because of the fact that UNICE in alliance with leading press publications such as the *Financial Times* and the *Frankfurter Allgemeine* exerted considerable pressure to prevent this from happening¹¹.

11 UNICE has the support of a number of leading press publications such as the *Frankfurter Allgemeine* and the *Financial Times*, in which Wolfgang Munchau, on 6 March 2006 criticised the amendments as 'protectionist' and claimed that the EP had 'emasculated' the Directive – an interesting use of language, as it clearly associated the main instrument – the country of origin principle – with certain gender-specific characteristics. The argument that the amendments were protectionist in their intentions is absurd, as the Services Directive will unleash a process of opening up of the market.

Some preliminary lessons can be drawn both in substantive and socio-political terms and in terms of process. In substantive terms the treatment of industrial relations and labour relations as mere appendages to the internal market/services market has been rejected and the status of the social dimension restored.

In socio-political terms the question: 'What kind of Europe?' has been answered in the sense that a neoliberal, one-sided concept of Europe has proved to be incapable of achieving consensus and of being realised. In terms of process, the interplay between the three institutions has stood the test of time, and has even resulted in a significant shift of power towards the EP. The Services Directive process was an instance of transnational socio-political mobilisation, including a key trade union role, which might contribute to the democratic re-shaping of policy-making at EU level representing a lesson that political mobilisation has to occur at EU level. Furthermore, and more concretely, it, together with the *Vaxholm-Laval* and *Viking cases*, could represent an important turning point in the process of clarifying the legal-political relationship between economic and social regulation of the single market, the four freedoms and basic social rights, thus illustrating how a far-reaching liberalising initiative can have an effect quite the opposite to that intended by its authors.

A recent comparative study on the influence of trade unions and employers' associations showed that the ETUC fulfilled the main criteria for effective action (unity of the organisation and efficient cooperation, campaigning amongst the wider public, lobbying the main actors, coordination of pressure policy by organising several big demonstrations), while UNICE concentrated less on the EP and more on the Council and the Commission. UNICE was "surprised" by the ETUC campaign, but reacted by involving the "highest level of staff and the president". The socialist draftswomen seemed to them not to be the right target. Moreover, UEAPME and other employer organisations took a position against the "country of origin principle".

The hypothesis that trade unions have a structural disadvantage compared to employers' associations could not be confirmed in this case¹². The broad trade union campaign was nevertheless a one-off, and could not be repeated for the chemicals legislation REACH¹³. In the case of the Services Directive, massive protests coordi-

12 Lisa Maria Arnold, Die Entstehung der europäischen Dienstleistungsrichtlinie im Spannungsfeld organisierter Interessen. Eine Fallstudie zum Einfluss von Gewerkschaften und Unternehmerverbänden im Europäischen Parlament (Freie Universität Berlin, Oktober 2006; 80 p.), p. 67.

13 <http://www.etuc.org/a/3112> The supporters of a balanced compromise were subjected to the most intense lobbying campaign ever mounted by industry within the European institutions, with particular pressure from the chemicals industry.

nated by the European trade union movement were linked to huge pressure on the European institutions, public campaigning and intensive networking. This combination ensured the efficiency of the movement and the surprisingly positive outcome to the battle.

The Services Directive controversy has become an important wake-up call to European trade unions, which for long have neglected these issues and closed their eyes to the conditions of many posted workers. It suggests that a European initiative is needed to provide for not only the legal but also the practical and organisational conditions for ensuring proper conditions for such workers. Another issue is how and to what extent the EP compromise will help break up many of the unjustified protectionist habits and arrangements currently in operation in many countries.

All in all, one can sum up by saying that the most aggressive and topical neoliberal attack on the European Social Model has been beaten back. The social dimension of the internal market was in danger of being destroyed, but the ETUC together with its affiliates was able to prevent this manoeuvre and safeguard essential workers' interests. The lesson is: the internal market can go forward, but it has to strengthen in parallel its social dimension, otherwise the acceptance and legitimacy of European integration as a whole will be in jeopardy.

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CODETERMINATION AND CORPORATE GOVERNANCE

Norbert Kluge

1. INTRODUCTION

Corporate governance in a European perspective has to reflect the fact that workers' representatives on company boards play an essential role in many EU member states. They serve as part of the national corporate governance system because they play a role in supervising executive managers and in exerting influence on companies' general business strategies (Kluge and Waddington 2006).

The role of employees in the control and monitoring of companies depends on one's basic understanding on what defines a company. At first glance, today this question seems to have been clearly decided: the enterprise belongs only to its owners! They should ultimately be in a position to make decisions on buying or selling a company, for example. Summarising all the arguments and political measures present in the European debate all the problems of company control can be related to the questions: How could increased share prices which are assumed to go hand in hand with better economic performance also serve general welfare? How could agents be better controlled by stronger rules on transparency, disclosure and independent non-executive directors? This is the issue in a nutshell.

In contrast, it is also possible to represent the composition of an enterprise in another way, as the interplay of different relevant groups which ensure the long-term existence and further development of the company. These groups provide capital and labour (TUAC 2005):

- shareholders who invest capital;
- managers who provide skills and knowledge; and
- employees who provide their labour power.

These three groups should be regarded as the main investors in a company. Furthermore, other social groups such as consumers and the local authorities are relevant for its orientation, making them stakeholders too. This view leads to the conclusion that a company's economic performance should not be disconnected from its social dimension. A well-functioning enterprise serves not only the benefit of the shareholders but the public interest too. In this view, corporate governance pro-

vides a mechanism to ensure this in a much broader perspective than generally considered today. Focussing only on shareholder interests is clearly inadequate and short-sighted.

2. OBLIGATORY WORKERS' BOARD-LEVEL REPRESENTATION – A CORE ELEMENT OF EUROPEAN DEMOCRACY AND ECONOMY

First of all, workers' representation at board level is a fact and not merely the pipedream of wishful-thinking trade unionists. Similar provisions on the statutory representation of workers may be found in 19 out of the EU-27 member states and in Norway (see overview in the appendix). In 12 of them workers' board-level representation forms are part of the national corporate governance system (Kluge and Stollt 2006). It is not possible to reduce it to dealing with the social consequences of management decisions or information and consultation; it is another style of managing a company since the obligatory presence of employee representatives in the boardroom in those countries requires the consideration and explanation of social consequences from the outset.

But though there has been a range of initiatives intended to establish a European standard of worker participation in large companies – with more than 500 employees – throughout Europe they have so far failed because of the differences between systems (Weiss 2002). Consequently, the solution achieved by the rules on workers' participation in the European Company Statute (*Societas Europaea* – SE) constitutes no European standard on the matter: they constitute the safeguarding of pre-existing rights at national level on transformation into the cross-border structure of an SE rather than a uniform new European standard.

Looking back to the origin of the European Union after the Second World War there is a continuous thread running from the European Coal and Steel Community that supports employee participation in general and board-level employee representation within systems of corporate governance in particular (*Verbindungsbüro-Montanauschuß* 1994). This thread comprises both policy statements and legal measures, more recently illustrated by the adoption of the European Company Statute in 2001. Underpinning this approach is the assumption that employee participation is a prerequisite of ensuring 'high road' production systems throughout the EU (Kluge 2005). Today such an approach fits well with the recent objectives of European policies. Strong and obligatory employee involvement based on Euro-

pean law can be seen to be in accordance with the main objectives of the 'Lisbon Agenda' which proposes combining economic performance with social (and environmental) objectives in favour of a 'high road' of production and services strongly promoting the European way of being competitive in a global economy.

Although an obligatory link between the social dimension as represented by workers' participation and companies at European level has not been fully achieved so far, we must concede that a number of valuable tools are available at EU level: the EU directive on information and consultation (2002/14/EC), the EU directive on European works councils (EWC directive 94/45/EC), and the EU directives on employee involvement in the *Societas Europaea* (SE) (2001/86/EC) and the European Cooperative Society (SCE) (2003/72/EC).

But the implementation of the SE legislation provided a reason to make changes in national corporate law towards more flexibility regarding the choice of corporate structure, aiming in this way to attract foreign investors. This type of change in domestic law may be observed in, for example, Hungary and Slovenia. There public limited companies are now free to choose between a single-tier and a two-tier system. The solutions provided in case of choosing a one-tier structure are significantly weaker than in the existing regulation on supervisory board representation and harbour the danger of a downward spiral in the coming years (ETUI-REHS and ETUC 2007, chapter 7). However, the examples of Sweden and Norway, among others, clearly demonstrate that the involvement of workers' representatives in a single-board system can function well. In Germany, the so-called 'Biedenkopf-Commission' was engaged by the government to examine the codetermination system regarding its compatibility with other provisions in Europe. The Commission ended up with an academic report stating by and large that the system has proven itself in practice but should be opened up to more negotiated elements in order to adjust the application of the legal system to the needs of companies and their employees in accordance with the philosophy of the SE legislation (Biedenkopf, Streeck and Wissmann 2006).

In practice, opponents of board-level employee representation argue that shareholder systems are in the ascendancy and legislation in European countries should be reformed to accommodate new circumstances. In contrast, the fostering of long-term profitability and employment, mechanisms to prevent mismanagement, and the benefits of transparency and accountability are highlighted by advocates of systems of corporate governance that embrace board-level representation. Reviewers of a strong organised voice for labour in companies have not been able to find any serious evidence of its disadvantageous impact on economic performance. Indeed,

a look at national economic performance figures illustrates the opposite: those countries where strong systems are part of the national corporate structure, on average, perform economically better than those without such provisions (ETUI-REHS and ETUC 2006, chapter 8)).

Against this background, the search for an appropriate European regime of corporate governance could not start with a proposal to eliminate statutory board-level representation as out of place in the modern age. Experiences with attempts to intensify external control by formalistic and bureaucratic measures required by stock exchanges, such as the Sarban-Oxley legislation in the USA demonstrate rather the opposite. But what kind of regime offers sustainable prospects for company development, combined with high quality and stable workplaces, at the same time as avoiding excessive executive pay, but finally also providing a good return on investments? Of course, this would require a fundamental change of viewpoint. Not only would a better system of external control be needed but, at the same time, effective internal control of ownership. Workers' participation could play an important and appropriate role in this kind of future model of corporate governance, accepting also interests beyond shareholders to the benefit of society as a whole.

3. CORPORATE GOVERNANCE IN EUROPE – THE CURRENT DEBATE

Unfortunately, the recent debate on the subject cultivated by the EU Commission is some distance away from taking a broader view. Stimulated by scandals in the USA such as those at WORLDCOM and ENRON all the emphasis seems to be on assessing how measures taken in the USA could be adjusted to the European situation. DG Internal Market of the EU Commission in particular is fairly inflexibly implementing its Action Plan on the Modernisation of Company Law and the Enhancement of Corporate Governance, adopted in March 2003 and prepared by a High Level Group of Company Law Experts.¹

In addition, the EU Commission organised support from the European Corporate Governance Forum in order to follow up one of the major findings of the High Level Group to encourage the coordination and convergence of national codes of corporate governance. Another Advisory Group consisting of legal experts complements the actions and measures taken by the EU Commission. All members of

1 See http://ec.europa.eu/internal_market/company/modern/index_en.htm.

these expert groups were exclusively selected and mandated by the EU Commission. Although in many pieces of European company law social interests are taken into consideration the EU Commission forwent any official consultation with the social partners in accordance with Art. 138 EU Treaty. Consequently, the legitimacy of its actions might be called into question.

Looking at the main subjects put on the political agenda a notable bias can be observed in favour of considerations and concerns usually to be met with among international and institutional investors:

- Proper establishment of national codes on corporate governance, particularly the application of the 'comply or explain' principle in EU member states.
- The role of shareholders, focusing primarily on shareholder rights, which led to a Forum recommendation in favour of strengthening shareholder rights by a European directive because the Forum believes that the efficient exercise of voting rights by shareholders is of essential importance to the furtherance of good corporate governance (24/7/2006).
- The functioning of control particularly concerning disclosure obligations, the independence of non-executive board directors, and directors' remuneration.

The treatment of the latter topic in particular showed the protagonists' ignorance of existing corporate structures in many EU member states which developed under other circumstances without any reference to the Anglo-Saxon style which today dominates modes of corporate financing and company management. It was difficult to make sure in the Commission recommendation of 15/2/2005 on the role of non-executive or supervisory directors of listed companies and on the committees of the (supervisory) board that worker representatives could also serve as non-executive directors as is usual in most two-tier systems. It was difficult to consider them as independent because they are contracted to the same company they are monitoring.²

All pursuit of political actors, even at EU level – for example, see the action plan of the EU Commission on the modernisation of company law (COM 2003/284) – seems to be oriented only to adjust regulatory systems to the – supposed – needs of international investors, which means mostly deregulation of social rights. From a trade union point of view, it is not acceptable to limit yourself to common ground if it amounts to no more than shareholders more or less controlling and monitoring themselves.

2 See point 1b, annex II, of the recommendation;
http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/l_052/l_05220050225en00510063.pdf.

This orientation will become more obvious when the EU Commission issues its study on 'Proportionality between capital and labour' commissioned from a consortium of ISS Europe/ECGI (European Corporate Governance Institute)/ Shearman & Sterling (law firm). The final report has been announced for May 2007. This study is in line with the political purpose of introducing the principle of 'one share-one vote' throughout Europe in order to clear all obstacles from the path of investors as regards takeovers, also at national level. In this regard, for example special voting rights as present in some EU member states – such as France or Sweden – are a thorn in the EU Commission's side. The concept behind these reflections and intended political measures is the idea of introducing 'shareholder democracy' as a fundamental social principle in Europe. The slogan 'the shareholder is king' cited by Commissioner McCreevy on the occasion of the European Corporate Governance Conference in London on 14 November 2005 is eloquent in this regard.

Two main concerns could be raised against this general orientation:

- Serious doubts can be raised concerning the appropriateness and utility of transposing the Anglo-Saxon model of corporate control, transparency and disclosure to the European milieu. Instead, Europe should build on the strength of its diversity and imitate the US only where it is clearly warranted (Lannoo and Khachaturyan 2004). With the exception of the UK, in many regards corporate governance systems in Europe differ from the Anglo-Saxon model: instead of dispersed ownership majority owners, even families, dominate the European picture, although the situation is shifting towards institutional ownership by financial companies or large pension funds. There is little evidence that a fundamental change in national systems could improve the existing situation. Control mechanisms can fail in individual cases (such as Parmalat) even in continental Europe, but also internally and historically grown structures along national paths of economic development have had to adapt in order to deal with the new challenges and demands originated by global financial markets. Finally, the care for the 'general interest' and 'employee interests' incorporated in the corporate control system has improved even in recent times. This is why there is really no need to change harmonised European corporate systems in the direction of a particular and exceptional model, namely the Anglo-Saxon one. It would probably not be unfair to characterise the 'one share-one vote principle' as masking the interests of the London City in the name of the 'general interest' and making European financial markets better functioning (Khachaturyan 2006).
- Europe is based on fundamental rights which enable its citizens to act if they feel they have been treated unfairly. It is not money or ownership but guaran-

teed rights which constitute European citizenship. Businesses are built on balanced labour relations based on law, at both national and European level. Art II-87 of the draft EU Constitution provides every employee in Europe with the fundamental right of information and consultation in good time if his or her workplace is to be affected by management decisions. Workers' rights to influence company decision-making by taking a seat on the board show a general orientation towards companies as encompassing a broader set of relations than those between its owners and its principals. Therefore, it is not in the interest of European democracy to take the retrograde step of subjecting citizens primarily to the ownership relationship. European policies should not retreat to a position in which citizens are merely custodians of liberal markets, rather the latter should be brought back into the driver's seat. It should pursue the objective of binding businesses into societies, setting up a proper framework by legislation at EU level and monitoring whether companies are taking corporate social responsibility seriously and not only as PR. Finally, managers have to respect workers' rights and accept their trade unions.

One of the rare members of these high-level EU-Commission bodies with a trade union background raised the issue of broadening the perspective of corporate governance to take into account a wider range of stakeholder interests.³ According to the minutes of that meeting he was bombarded with such worrying comments as that including employee interests in the corporate governance debate could be used by managers as an excuse to follow only their own line against shareholder interests. Others could only see a tenuous link with the need to show corporate social responsibility. None of the reactions indicated the obvious: in most EU member states managers and shareholders simply have to accept the presence of workers' representatives.

4. WAY OUT FROM A DEAD END – CORPORATE GOVERNANCE REFORM IN EUROPE: TOWARDS THE SUSTAINABLE EUROPEAN COMPANY

In the new world of globalized shareholder capitalism and alternative investment by hedge funds and private equity an obligatory voice for labour in management

3 Raised at the fifth meeting of the European Corporate Governance Forum on 1.6.2006; see http://ec.europa.eu/internal_market/company/docs/ecgforum/minutes_01_06_2006_en.pdf.

control and decision-making seems almost an alien idea without future prospects. Despite its benefits, including the curbing of excessive greed, for society and a lively company democracy, today obligatory board-level workers' participation looks like a 'forgotten resource' (Fulton 2007). But even the German Biedenkopf Commission assumed a potential role for codetermination in curbing investment strategies which are too aggressive, aiming ultimately to dissolve companies. Having the chance to exercise a voice and to vote in the boardroom could be used to attempt to change the general orientation of decisions by new owners or, at least, to lay down conditions for takeovers by alternative investors, so using codetermination as a means of limiting the worst excesses (Biedenkopf, et al. 2006).

Due to the globalisation of capital and the increasing importance of institutional investors, some experts have suggested that the stakeholder model is out of date and that Europe must adopt the shareholder model to be competitive. The new debate on 'one share—one vote', the reluctance of the European Commission to create a European legal standard on worker participation, and the employers' attacks on codetermination in a number of countries, are examples of this view. But are these really the only two alternatives for Europe? Recent developments in Germany and the Scandinavian countries and also the Netherlands, where elements of the shareholder model are being successfully integrated into existing stakeholder systems, suggest otherwise. This new system of 'a sustainable European Company' or, in more conventional terms, 'negotiated shareholder value' appears to fulfil the key demand of institutional investors for greater transparency, while at the same time avoiding excessive short-termism and the financial scandals that characterise the US in particular (Vitols 2006).

The '*sustainable company*' has to take on board more than a return on its investments if it is to have a long-term existence, namely:

- *for employees*: providing training, well-paid and satisfying jobs, with the maximum possible employment security;
- *for the environment*: using resources in ways that do not contribute to the further deterioration of the environment;
- *for customers*: providing reliable, high quality products;
- *for creditors/bondholders*: providing interest payments at low risk;
- *for stockholders*: providing high transparency and a financial return commensurate with the risks of shareholding.

To meet these challenges, companies need to develop policies which are sustainable in three respects: (i) with regard to *human resources*, (ii) with regard to the *environment*, and (iii) with regard to *financial policy* (patient capital).⁴

Such a concept goes pretty well with the position of ETUC which is strongly in favour of a highly productive European economy and a social Europe, as laid down in the Lisbon agenda (ETUC 2006). This agenda speaks out in favour of the 'high road' and against the 'low road' of industrial restructuring and wealth creation. Following the 'high road' of a highly skilled and committed workforce and high productivity, however, requires European companies' acceptance of a broader notion of social responsibility, rather than just the narrow serving of shareholder interests. This is the yardstick against which recent policies on improving corporate governance and corporate social responsibility at European level have to be measured.

According to its resolution ETUC takes the view that workers are not only parties to an employment contract, but at the same time investors and citizens. Workers should be seen as participants in the company, just like shareholders, in the sense that they sustain risks arising from the company's choices.

Furthermore, ETUC makes reference to the current OECD principles on corporate governance often invoked as the basis for such national codes. In these principles, workers are explicitly mentioned as constituting an important stakeholder category. A stand-alone principle on board-level worker representation introduced into the OECD Guidelines on Corporate Governance of State-Owned Enterprises which underlines the value of such representation – in terms of contribution to the board's expertise, information and independence – has been recognised (Guidelines VI.D).

In practice, the European company (SE) provides a good opportunity to implement an appropriate regime for governing a cross-border company, balancing the requirement of good economic performance with the social cohesion of European societies. As of March 2007 68 SEs were registered throughout Europe (see Schwimbersky for www.seeurope-network.org). But little more than a dozen look properly established, having reached agreement with their employees on their further involvement as required by the SE legislation. Others claimed not to have any employees at the time of establishment, and in many cases even the business purpose is not clearly indicated (so-called UFOs). This incomplete state of information is unsatisfactory and could undermine this piece of European legislation. Because of its importance in giving European businesses the chance to exhibit the European way of managing a globally competitive company with employee involvement the ETUC

4 This concept goes back to ideas elaborated by Sigurt Vitols, though we have no room here to do more than merely introduce its main outlines.

invited the EU Commission to analyse the situation and to take measures in order to ensure a proper overview of registered SEs containing information on the agreement with their employees.

A preliminary analysis of the agreements on workers' involvement in SEs such as STRABAG SE, MAN Diesel SE and Allianz SE, as well as the Finland-based Elcoteq SE and the Austrian-based Plansee SE shows that, from a European perspective, the worker side can be satisfied with the results. As expected, no SE looks like another and a wide variation can be identified also with regard to the solutions on workers' involvement, depending particularly on the country of origin and the specific context and culture of the companies involved in the establishment of the SE. The ETUC expressly welcomed the agreement signed in Allianz SE – with more than 160,000 employees by far the biggest SE so far: 'for the first time ever, a large company (...) expressly subscribed to a system of European management comprising significant, mandatory worker participation.' The ETUC saw this as an important step in providing more workers than before with worker participation rights, even in countries in which provisions on codetermination do not exist at national level. For the first time worker representatives from several countries will share the employee seats on the company's board on the basis of a European directive – which represents an enormous challenge for trade unions in Europe too.

Together with two other important directives enhancing cross-border company mobility in Europe by applying European law, the Directive on cross-border mergers (the so-called 10th directive) which will come into force in 2008 and, further down the line, the scheduled directive on cross-border transfer of registered seat (the so-called 14th directive), all actors, including workers and their trade unions have the opportunity to implement the idea of managing companies in a manner in keeping with the ambitious political objectives of creating a social, sustainable and competitive Europe.

5. SUMMARY AND OUTLOOK

Highly developed industrial relations with mandatory workers' participation at all levels, and with the inclusion of the trade unions, serve as a good basis for combating the notion that only share ownership can make a good citizen out of a European citizen. It is the legally guaranteed space for workers' participation that helps make European democracy and the European economy strong. The citizens of Europe must be convinced of the seriousness of political intentions to enable them to influence

their working life in the course of social transformation. It is against the common understanding of freedom and democracy to simply deliver them up to market forces.

Giving the highest priority to promoting the good functioning of European financial markets, also by European legislation, indicates a narrow political philosophy that holds that only private investors and large funds are appropriate resources for financing companies. This culminates in the idea behind the 'one share-one vote' principle which the EU –Commission currently strongly adheres to. It suggests organising society as a whole as a 'shareholder democracy', on the naïve grounds that this will be a society of equals.

But we can already see the negative effects of this liberal notion. Nowhere, not even the USA, have enterprises benefited from aiming solely at short-term profits. High executive salaries and control of enterprises exercised by their owners alone have resulted in neither better economic performance nor higher enterprise value in terms of higher share prices over the long term. Often enough, leveraged buy outs of enterprises by hedge funds or private equity leaves them squeezed out and lacking future prospects. The workers affected so far have had no means of counterbalancing such negative consequences. Effective European legislation might serve to orientate this segment of the financial market towards longer-term perspectives for targeted companies and their employees.


The time seems ripe for a *new model for the era which will succeed shareholder capitalism*. Participation will play a path-breaking role in this. But the trade unions cannot go back to the ideas and instruments of 'industrial democracy', the model of the 1970s and 1980s. Circumstances have changed: financial markets know no boundaries, and extremely demanding and enormously wealthy international investors and powerful multinational companies influence public life more than ever, including people's working lives. European policy would be well advised to establish a counterforce if the idea of the European social model is not to continue to lose ground.

If the trade unions wish to play a major role in this struggle for the direction of the economy they must reach a better understanding of how and by what means globally active enterprises and investors have become drivers of social change. It will not be enough to plough the same old furrows. Trade unions have to be more creative in reflecting and developing acceptable demands and new institutional arrangements to civilise global financial markets. The trade unions must broaden their expertise as regards how enterprises and financial markets work and how they can be better controlled and influenced. The European Union provides a promising frame of reference for such efforts, on the understanding that in the age of the global economy this is not enough.

The ETUC Congress in Seville in May 2007 will provide an opportunity to underline the political will of the European labour movement to use the existing tools effectively and to continue to demand the standards of obligatory workers' representation in boardrooms provided by European legislation, with a view to elaborating a new concept of a 'Sustainable European Company'.

ETUI
REHS

Employee board-level participation in the 30 countries
applying the European Company (SE) legislation



	COMPANIES CONCERNED		PROPORTION OF BOARD-LEVEL EMPLOYEE REPRESENT.	SELECTION OF BOARD-LEVEL EMPLOYEE REPRESENTATIVES BY			ELIGIBILITY CRITERIA: ONLY EMPLOYEES?	COMPANY BOARD STRUCTURE
	STATE OWNED *	PRIVATE SECTOR		TU	WC	VOTE		
AT	●	●	1/3		●		●	D
BE								M
BG								M or D
CY								M
CZ	●	●	1/3			●	●	D
DE	●	●	1/3 – 1/2	● TU seats		● other seats	in state- owned C except for TU seats	D
DK	●	●	1/3			●	●	D
EE								D
ES	●		2 members	●				M
FI	●	●	Agreement, max. 4 members		● Personnel groups		●	M or D
FR	●	(●)	1/3 resp. 2-3 members			●	●	M or D
GR	●		2-3 members			●	●	M
HU	●	●	D: 1/3 M: Agreement (mostly) 1/3	must be consulted	●		●	M or D
IE	●					●	●	M
IS								M
IT								M or D
LI								M
LT								M or D
LU	●	●	1/3	● TU seats in iron/steel C	●		● except for iron/steel C	M
LV								D
MT	●		1 member			●		M
NL	●	●	max. 1/3		●		no E !	D
NO	●	●	up to 1/3			●	●	M
PL	●		(mainly) 2/5			●	●	D
PT	●		1 member			●	●	M
RO	(●)	(●)	min. 1 member (only advisory say)	●				M
SE	●	●	2-3 members	●			●	M
SI	●	●	D: 1/3 - 1/2 M: 1/5 - 1/3		●			M or D
SK	●	●	private C: 1/3 state-owned C: 1/2	1 seat in state-owned C		●	●	D
UK								M

Abbreviations: TU = trade union / WC = works council or elected workplace representatives

M = monistic structure (board of directors) / D = dualistic model (management board and supervisory board)

* including privatised companies

Source: N. Kluge / M. Stollt (2005): www.seeurope-network.org

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SEEurope *

www.seeurope-network.org

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BETWEEN LOCAL TEMPTATIONS AND EUROPEAN NECESSITIES: FIGHTING FOR EUROPEAN FRAMEWORK AGREEMENTS IN THE EUROPEAN METAL INDUSTRY

Peter Scherrer and Rainer Weinert

THE RESTRUCTURING POLICY OF THE EUROPEAN METALWORKERS' FEDERATION (EMF)

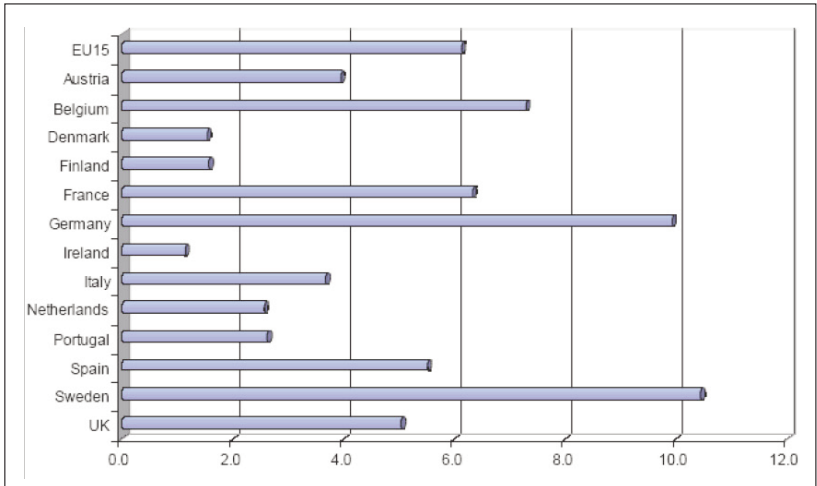
Since the beginning of the 1990s the EMF and its member organisations have increasingly been involved in cross-border company restructuring. Today it is a major field of the EMF activities. The EMF executive committee stated in June 2005 about the EMF policy approach towards socially responsible company restructuring:

“Corporate restructuring with a transnational dimension has become a permanent feature in the metal sector over the past years. Globalisation, fast-growing technological change, domination of the liberal ideology and the driving role played by financial markets have all contributed to making today’s economy one of accelerating change.”

THE CHALLENGE

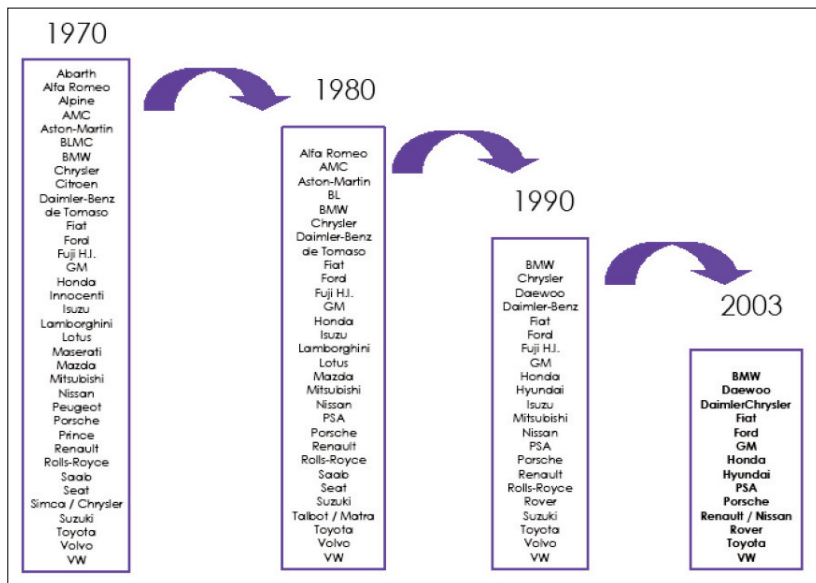
Employment in the European manufacturing industry is very much dominated by the automotive sector (see graph). With the automotive supplier companies, it is the biggest industrial sector in Europe. The EU is still the largest regional market in the world. The European automobile industry employs around 10 million people, which is about 8 percent of the manufacturing jobs. The car industry is a high-tech industry with a challenging importance for growth, mobility and employment all over Europe. The car manufacturing industry is a key sector to achieve the Lisbon goal. The European automobile industry is a key industry for the European metal industry and it is together with the aeronautics, shipbuilding and ICT industry the driving force for technical innovations.

Figure 4: % of manufacturing industry employ in vehicle manufacturing



Source: Eurostat Datashop.

In the last 25 years the automobile industry has undergone dramatic changes, especially via mergers and acquisitions: from 30 European based car manufactures in 1980 down to 14 in 2003: BMW, Daewoo, DaimlerChrysler, Fiat, Ford, GM, Honda, Hyundai, PSA, Porsche, Renault /Nissan, Rover, Toyota, and Volkswagen. Some analysts predict further mergers and acquisitions.



Source: European Competitiveness report 2004

This development reflects an intensified global competition, major organisational change, changes to manufacturing and vehicle technology. Specific production regimes like the Toyotism in the 1980s were on the decline in favour of intensified cost competition.

Another major problem for trade unions is over-capacity in European automotive sector. In the past many companies were often over-confident in sales predictions – accompanied by bad management decisions. Fiat, Ford and Opel were faced with sales fall over the last few years. The companies reacted with drastic restructuring plans including plant closures and about 45,000 lay-offs or redundancies. General Motors closed the Luton factory (UK), the Azambuja plant (Portugal) and reduced production at Antwerp (Belgium) and Bochum (Germany) with lay-offs totalling more than 20,000. Ford has closed five out of 11 European plants, closed down production at Dagenham (UK) and a shift at Genk (Belgium), which meant 3,000 redundancies (MacNeill/Chanaron 2005). Volkswagen is about to reduce capacities in the Brussels plant by more than 2000 jobs. Summarising these developments we can identify similar strategies among the big car producers in Europe as regards:

1. A shift to cross-national and cross-company alliances and co-operation so as to develop identical "platforms" for different new models (due to high R&D costs);
2. developing restructuring along regional lines (European, Asian, American);
3. moving the production of new models to Eastern Europe and other parts in the world;
4. reducing costs, especially labour costs;
5. enforced competition among different plants (EMF 2005).

The basic problem for trade unions concerning restructuring in European companies is that

- restructuring in European automobile and other metal industry related companies is a strongly centralised (or 'Europeanised') endeavour,
- and at the same time management is only willing to bargain the impact on employment on local level.

As a matter of fact the idea of this approach is to play off one European plant against another. The management often tries to tempt local trade union representatives to conclude local agreements only. The so called concession bargaining is part of this strategy. These locally concluded agreements turned out to be short-lived (as we will demonstrate). The EMF sees it's most challenging work in pushing forward European based multinationals for European-wide framework agreements and to come to basic rules which are valid for all involved plants. The EMF was given by the decision of its Executive Committee in 2006 the possibility to negotiate and conclude such European framework agreements.

THE TRADE UNIONS IN THE EUROPEAN METAL INDUSTRY

The European metal industry is still characterised by a high level of unionisation. The union density rate in the automotive industry is superior to the overall national unionization rate in almost all the European countries (da Costa/Rehfeldt 2006). Trade unions in the European metal industry have strong mechanisms of worker representation, both at the national and the European levels, which are used by strong union actors. European works councils (EWCs) play an important role in dealing with restructuring. High coverage rate and strong unions enables the European Metalworkers' Federation to conduct transnational actions, e.g. the European Action Day in the shipbuilding industry in November 1999 with the participation of 10 member states. In the run-up of introducing the Euro the EMF intensified its co-ordination efforts in several fields, mainly collective bargaining but also industrial

policy, and company policy. In the course of the past ten years, the EMF has strengthened its mobilization power significantly and gained in influence at European level. Two examples, the conflicts at General Motors and Electrolux, may illustrate this trend:

General Motors Europe and the European Employee Forum:

Restructuring has been an issue at General Motors Europe (GME) since the mid of the 1990s; about 21,000 jobs were cut in Europe from 1998 to 2001. In the 1990s various plant-level agreements were signed in Germany and the UK. But these plant-level agreements turned out to be short-lived. "Discussion of the various production security agreements made it only too clear that the nationally successful agreements were an expression of the logic of the intra-group competitive situation, and that European and national management were able to play one individual location off against the other. Those involved in the European Employee Forum of General Motors were forced to recognise that this was a no-win situation: success for one location came at the expense of another." (Herber/Schäfer-Klug 2002). Since then GME's European works council is pushing forward European agreements.

The turning point for the European Employee Forum (EEF), GME's European works council, was the alliance between GM and Fiat in 2000 with a possible impact on over 14,000 GM and almost 15,000 FIAT workers in Europe and Brazil. The EEF decided to go first for a European framework agreement. This should be the basis for the different plant-level agreements in Europe. With this agreement signed in July 2000 the GM EEF was one of the first EWCs to organise European company restructuring as a European project. The second challenge was the planned closure of the Vauxhall plant in Luton (UK) in 2001. In December 2000, GM had announced a restructuring programme which involved a workforce reduction of 6,000 in Europe of which 2,000 in Luton. The EEF and the EMF then called a European action day with clear demands to GM and finally, a European framework agreement was signed in March 2001. In the same year, the EEF was confronted with another restructuring programme from management, the so-called Olympia programme, aimed at reducing over-capacity in Europe. The intention of the EEF was to prevent any plant closures and redundancies. But in exchange, it was ready to support the Olympia restructuring programme (Caron/Weinert 2005).

Nevertheless, members of the works council were surprised upon the 'big bang-announcement' of the GM Europe management in 2004 to cut 12,000 jobs. From

an EMF point of view the events were of exemplary importance because the EMF played an active role from the very beginning. Shortly, after the announcement of GM Europe on the occasion of Svenska Metal's Congress in September 2004 a joint declaration was released by the Swedish trade unions (Svenska Metall, SIF, CF) and EMF in Stockholm ("No to social dumping, yes to respect for signed collective agreement"). It protested against GM Europe's unilateral declaration without prior information and consultation of the workers' representatives and called for constructive discussions with the European Metalworkers' trade unions in order to find acceptable solutions for both parties. Only two weeks later, the EMF discussed with its affiliates to develop a common strategy and a "European trade union co-ordination group" (ETUG) was set up with representatives of the national trade unions concerned, members of the EEF and representatives of the EMF Secretariat. The group agreed on common basic demands (i.e. a political platform) for socially acceptable restructuring, which were disseminated to affiliates and in GM Europe companies. It also agreed to set up an information mechanism at trade union level with a clear commitment of no individual negotiations on national level. Finally, the EMF, the EEF and GME concluded the European framework agreement in December 2004.

For the EEF it was important to present the political aim of "sharing the pain" between all GM plants and to exclude site closures, which continued the tradition of previous European framework agreements. Management agreed on this very important aim. In order to achieve this, it was agreed that "both parties intend to improve the competitiveness of the European sites to enable their sustainable operations in the future."

For the EMF three aspects were important:

- After the announcement of GME to cut 12,000 jobs a European Action day was organised on 19th October 2004 with the participation of over 50,000 employees in all GM plants across Europe.
- This European-wide mobilisation surprised the management and supported the position of the EMF and the EEF.
- Above all, the whole process was a trust-building contribution among European trade unions. GME tried to play off the plant in Trollhättan (Sweden) and Rüsselsheim (Germany). And, of course, there was distrust and uncertainty in the first place amongst EEF members in Sweden as well as in Germany as to what the others might do. But due to close information system set up by the EMF distrust had been overcome.

In 2006 the GM Europe management announced the closure of the Opel plant in Azambuja (Portugal). Including the workers of the supplier companies more than

3000 workers and their families had been affected by this plant closure. The EEF and the EMF trade union co-ordination group (ETUG) organised again a European-wide action day. The workers of Opel Azambuja started their action on the 29.6.2006. All Workers of the plant took part in a 24-hour strike and attended with their families the "March to Lisbon" where they met representatives from the Portuguese Parliament and the European Union. The solidarity became European-wide in the coming days. Although the European trade union co-ordination group (ETUG) and the EEF were mobilising all the possible support against the closure and were trying to put as much as possible pressure on the GM Europe management it could not prevent the termination of production by the end of 2006. The GM Europe management paid the highest compensation ever paid in Portugal to the workers of Opel Azambuja. The European solidarity of the metalworkers has been challenged by the management but it proved to be functioning although the objective of preventing the closure was not achieved.

The Electrolux case:

The management of the Swedish producer of household appliances Electrolux announced in 2005 a European restructuring programme which included the closure of half of its 35 Western European plants. The closing of a plant in the Rioja region in Spain in 2005 was according to the management supposed to be followed by the closure of Electrolux plant in the Southeast of Germany. In January/February 2006 the workers of the Electrolux plant "AEG Nürnberg" went on strike. The IG Metall called for an official strike and supported their members during a more than six weeks long work stoppage. The workers in the German plant have been supported by a European action day in which the workers of all Electrolux plants in Europe participated. The management was extremely determinate in its plans to finish production in Nürnberg and decided to close the plant regardless the possible costs. The German IG Metall called for a boycott on Electrolux products. Since the media covered the strike action very closely and thoroughly this additional pressure added massively to the costs of the closure. Finally, the stoppage of production could not be prevented. The management refused persistently to negotiate a European framework agreement. Even the enormous pressure during the long period of the strike action did not change the policy of the leader in white goods production. Latest information says that for the time being the restructuring programme is postponed because of the massive financial loss made during the industrial action: IG Metall reckons it did cost the company 400 Mill. Euro.

THE TEN PRINCIPLES IN CROSS-BORDER RESTRUCTURING

In June 2006 the representatives of the 74 EMF affiliated member organisations agreed on the ten principles of trade union co-operation in European restructuring programmes in multinational companies. The principles are based on the experience of the recent restructuring cases. They do include a self commitment of the EMF member organisations.

“1. Develop an early warning system

Any rumour of a restructuring plan should be checked especially with colleagues from other countries in order to be able to rapidly confirm or invalidate the news. Should the information be confirmed it has to be disclosed to the actors concerned i.e. national officers, the EMF Secretariat, the EMF EWC coordinator and EWC members in such a way as to allow rapid reaction. Anticipation is a pre condition for influencing the decision-making process. The news can also come from newspaper articles – an occurrence that we see more and more frequently. Our response to this style of announcement will require a higher degree of reactivity and tighter co-ordination.

2. Ensure full compliance with information and consultation rights both at national and European level

Access to relevant information is essential to understand the company strategy and propose alternative measures. Furthermore workers and their representatives should have the necessary time to develop these alternatives proposals. Steps will be taken to ensure that workers and their representatives are properly informed and consulted both at national and European level before the final decision is taken. Where a European Works Council exists, an extraordinary meeting of a EWC will be requested in the first place with a view to obtaining more information and agreeing on a timeframe for consultation.

3. Set up a European trade union coordination group composed by the unions involved in the company, the EWC and the EMF co-ordinator

If it is deemed necessary, a European trade union coordination group will be set up. The idea is to tie together around the same objective all the potential actors: the trade union officials from the trade unions concerned, the EWC

members, the EMF EWC coordinator, the EMF Secretariat, workers' representatives within the Executive or the Supervisory Boards. This body will be the driving force behind the European strategy and the establishment of a European co-ordinated response. Most likely it will become a social dialogue group in the event of framework negotiations at European level. The EMF Coordinator will take care of the general interests of the workers all through the process.

4. *Full transparency of information*

Creating a climate of trust and confidence among the colleagues in the different countries concerned is the prerequisite for a joint and co-ordinated response. Full transparency of information should be achieved in this respect. More specifically, any attempt from management to strike a deal with one company or in one country will be reported to the colleagues concerned or to the co-ordination group. No negotiation will be concluded before having informed and consulted with the colleagues concerned or the co-ordination group.

5. *Draw up a common platform*

A platform of common demands will have to be drawn up to signal to management and to the outside world the workers' intention to stand up together and develop co-ordinated actions. Basic demands will have to be supplemented by the development of a plausible and coherent alternative concept combining an industrial plan with socially acceptable measures. The possibility of bringing in external experts to assist on this matter shall be considered. Where an EWC exists the EMF Coordinator will have a key role to play in initiating such a platform. The platform will be drawn up in co-operation with the national unions and the EWC. The workload will be shared between the different stakeholders.

6. *Envisage negotiated solutions acceptable for all*

The unions, together with the EWC, will seek to negotiate a framework agreement with management at European level covering both industrial and social aspects, guaranteeing that restructuring is managed in a socially responsible manner and that the sustainability of the company and employment are guaranteed in the long run. All possibilities to mitigate the social consequences will be explored (reduction of working time, reallocation of work, early retirement, retraining, reclassification, etc.). Minimum standards for a social plan will

be defined Europe wide. No negotiation at national level or within one company will be concluded before having informed and consulted with the colleagues concerned at European level.

7. *Develop a communication strategy*

Wielding influence is the key to the success of your strategy. First reactions, the political platform, conclusions and decisions should be immediately relayed by the press, the unions, the workers, the politicians, etc. In order to ensure that the campaign is 'worker-based', members and workers must be fully informed. Communicating to the outside world is also essential. Politicians, Members of the European Parliament or anyone with influence can be rallied to your cause.

8. *Envisage cross-borders activities*

In case management is not willing to agree to a fair and constructive approach, cross-border actions will be envisaged. Mobilization should be worker-based and creative. A European day of action is one of many instruments that can be envisaged. Others can be developed in line with national practices and traditions providing that they make our cause and our demands more visible. If this type of action is decided, the internal EMF procedure for such actions, will apply.

9. *Explore any legal possibilities to ensure that workers are heard*

In the event of a merger, workers have the right to be heard in the merger control procedure which is carried out by the European Commission. Through this procedure the European Commission will decide whether the planned merger/acquisition will lead or not to abuse of dominant position. Workers can ask to be consulted by the Commission on the abuse of dominant position and raise the issue of the social consequences.

10. *Binding commitment*

Any strategy agreed, any decision taken, at European level should be made binding for all the actors concerned and implemented at national level." (EMF 2005)

FIGHTING FOR EUROPEAN FRAMEWORK AGREEMENTS

For European trade union organisations, its member organisations and European employees it is vital to meet companies on the same level restructuring is organised: as a European endeavour. European framework agreements are an 'umbrella' consisting of basic rules, norms and procedures that are binding for all follow-up agreements at plant level throughout Europe. In the bargaining process the European co-ordination by the EMF ensures that all trade unions and employee representatives are kept informed. The second aspect is the implementation of the agreements by the EWCs. This strategy requires close consultation and information between the different plants involved, and the permanent information of the EMF affiliates. This is a highly complex and demanding process. It does require an active participation of all actors on the local level, the national trade unions, and the EMF.

Due to the importance of European restructuring the role of the EMF in the future will be one with a high responsibility and importance. There will be a "natural temptation" to go ahead with single plant bargaining. This is the principle reason why there is a need for organisation that is responsible for all employees in Europe in case of Europe-wide restructuring. There has to be a clear message about the prerogative of European negotiations and agreements.

The EMF is quite aware of the fact that European agreements are not easy to conclude with multinational companies. The history of GME's EEF and other examples show that it is a long road to get the first European agreement. It is an ongoing process of mutual learning between local representatives, the EMF affiliates and the EMF itself. Hence the EMF will continue in pushing for strong cross-border co-operation between employee representatives and trade unions.

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- See the EMF website for further information www.emf-fem.org

EUROPEAN SOCIAL DIALOGUE – AN EMPTY SHELL OR A TOOL FOR SOCIAL EMBEDDING?

Philippe Pochet

INTRODUCTION¹

An evaluation of the cross-industry and sectoral social dialogue is a difficult task as it is an on-going process with various dimensions, among them the information, consultation, and negotiation between the European trade unions, the European employers and the Commission are often underlined (Transfer 2006). Because of the lack of space, we will not address the autonomous initiatives of the trade unions, namely their attempts to develop wage coordination at EU level (Schulten 2004), or collective action (Hilal 2005 on the railway sector for example). We will analyse here the main outcome of the social dialogue: the agreed joint texts. Clearly the main topics at EU level are different than those at national level (for example wages or working time are not addressed) (Keller 2005; Marginson and Sisson 2004). We will analyse the social dialogue dynamic as a process *per se* and not benchmark it with industrial relations at national level. By doing so we can underline the originality of these processes. In our collective book (Dufresne *et al.* 2006) we draw a clear distinction between social dialogue and national collective bargaining. We would define the former as “a set of functions (joint action, consultation by the Commission and negotiation between the partners) and “institutional frameworks”, both cross-industry and sectoral, which provide the players with strategic resources in terms of power, influence and finance. These institutions make it possible for the “European social partners” to be involved in European decision-making and, perhaps, to negotiate agreements whose content is binding to a greater or lesser extent” (Dufresne and Pochet 2006: 21).

We will present in an integrated framework both the cross-industry and sectoral social dialogues. Their stories run mostly in parallel but recently the interaction has

1 The paper is part of a research on new modes of governance (NEWGOV) coordinated by the European Institute Florence funded under the 6th EU framework research program.

increased as they have worked on the same topics (telework for example) and as the Commission (see CEC 2004) is trying to combine them. Finally, they have more or less reached the same point (soft law as the main regulatory instrument) and are confronted by the same set of problems (implementation, enlargement, representativeness). As the sectoral social dialogue is much less well-known than the cross-industry one, we will concentrate our attention on developments at sectoral level (see also Benecditus et al 2003; de Boer et al 2005).

This chapter is structured as follows: the first part presents a brief history of the European social dialogue, the second part defines broad categories to classify the joint texts adopted by the EU social partners, the third presents a quantitative analysis of the texts adopted in the last ten years at sectoral level. Section 4 briefly illustrates the nature of the exchange and presents a typology. Then we draw some conclusions.

1. A BRIEF HISTORY OF EUROPEAN SOCIAL DIALOGUE

Originally the bodies responsible for the consultation of the European social partners were joint committees, established by the European Commission. A first wave of six joint committees was formed in the sectors covered by the “integrated” common policies: mines (1952), agriculture (1963/1974), road transport (1965), inland waterways (1980), fishing (1974) and railways (1972). Their members were appointed by the Commission, with an equal number of employers and employees.

Informal working parties, set up at the request of the social partners, began to appear during the 1980s. They provided for a more pragmatic and flexible form of social dialogue, as well as being more informal. They were created in a number of sectors with the Commission’s backing: Horeca (1983), commerce (1985), insurance (1987), banking (1990), etc.

A second wave of joint committees took shape in the late 1980s and early 1990s in the following sectors: sea transport (1987), civil aviation (1990), telecommunications (1990) and postal services (1994).

In 1985, the Single Act introduced a provision recognising the social partners and allowing them to develop a dialogue. With the support of the President of the Commission, Jacques Delors, cross-industry social dialogue between ETUC, UNICE (now Business Europe) and CEEP began.

The idea behind the creation of the social dialogue was to enable the European social partners to meet around a table and make commitments among themselves,

autonomously, in much the same way as they do in social dialogue within Member States (CEC 1996). From 1985 to 1990 the dialogue between them resulted in the adoption of a dozen “joint opinions” on a range of topics: vocational training, new technology, mobility², etc.

The importance of the years 1985 to 1989 lies not so much in the content of the joint opinions adopted and their limited scope (Didry and Mias 2005: 201) as in the establishment of procedures for regular dialogue (Turner 1995). The 1991 Social Protocol laid down a legal framework which opened up new scope for dialogue at cross-industry level as well as in the various sectors. The entry into force of the Maastricht Treaty (and its Social Protocol) resulted in an obligation on the Commission to consult the social partners prior to the adoption of a legislative proposal, and the possibility for them to sign collective agreements which may either be extended *erga omnes* by means of a Council directive or else be implemented by the social partners themselves at national level. Joint opinions nevertheless continued to be issued until 1996.

The cross-industry social partners agreed on three collective agreements transformed into directives by the Council (parental leave (1995), part-time work (1997), fixed-term contracts (1999). They failed to agree on others, such as works councils or information/consultation at national level. The failure in 2001 of the negotiations on temporary agency work, which should have been the last text on atypical employment (after the fixed-term and part-time agreements) marks the end of the “negotiated legislation” period. At the end of the 1990s, the trade unions reassessed the role and support of the Commission. In their view, the Commission was no longer pro-active in its support of the social dialogue by proposing new legislation and creating a threat obliging the employers to enter into negotiations. They were willing to explore new avenues.

Concerning the sectoral level, the need to adapt the working time directive in the sectors not covered was an incentive to negotiate. Following its framework decision of 20 May 1998 (CEC 1998a) the Commission decided on 1 January 1999 to rationalise the system by replacing the joint committees and the informal working groups by a unique new structure: sectoral social dialogue committees (European

2 In particular on social dialogue and new technology (12 November 1985), the growth and employment cooperation strategy (6 November 1986), training and motivation, information and consultation (6 March 1987), the 1987-1988 annual economic report (26 November 1987), the European area of occupational and geographical mobility (13 February 1990), basic education and initial training and adult vocational training (19 June 1990), the transition from school to adult working life (6 November 1990), and new technology and work organisation and labour market adaptability (10 January 1991).

Commission 1998). They are formed by joint request of the social partners and approved by the Commission. They comprise a maximum of 40 representatives (with an equal number from both sides of industry) and are chaired either by one of the social partner representatives or, at their request, by the Commission representative who in any event acts as the committee secretary. Each committee is expected to adopt its own rules of procedure and work programme (often annual). It holds at least one plenary meeting per year and handles more specific matters at enlarged secretariat meetings or in restricted working groups. The negotiating mandate is determined by national organisations: the Commission has not laid down any rules as to the means of approving joint texts.

The last period is the consolidation of the system by the extension of the number of sectoral social dialogue committees (SSDCs). It has grown since the reform from 20 in 1998 to 33 in 2006. Ten joint committees and 16 informal working groups were transformed into SSDCs, while nine sectors established committees directly: live performance (1999), temporary workers (1999), furniture (2001), shipbuilding (2003), audiovisual (2004), chemical industry (2004), local and regional government (2004), hospitals and finally steel (2006). The last new sectors are the leading sectors at national level (steel, chemical, local public services). The last two important sectors missing at EU level are public administration and engineering (which is creating sub-sector committee steel, shipbuilding, garage).

Ten years after Maastricht, the cross-industry social partners were keen to assert their autonomy vis-à-vis the European institutions, especially the Commission. This shared concern was not based on the same premise in the case of employers' and employees' organisations. For the trade unions, it derived from a reassessment of the Commission's role. The Commission appeared increasingly reluctant to fulfil its role of drafting legislative initiatives in the social policy field. Hence it echoed the trade unions' demands to a much lesser extent than in the past. For the employers, on the other hand, it was a means of shaking off once and for all the pressure exerted by the Commission (Arcq et al. 2003; Branch and Greenwood 2001). Legally binding framework agreements gradually gave way to so-called "voluntary/autonomous" agreements, where matters such as status and follow-up remain quite nebulous – as in the case of those on telework (2002) and stress (2004) (Branch 2005) and violence at work (2007). This development was accompanied by the gradual introduction of the open method of coordination, inaugurated at Lisbon, into the social dialogue itself. In 2002 the social partners adopted a three-year work programme (2003-2005) which confirmed the absence of legally binding proposals by promoting "frameworks for action". We would mention among others the frameworks for

action on lifelong learning and on gender equality. In 2005 the social partners – a weak ETUC and a still non-committal UNICE – negotiated a second programme of action (2006-2008). One autonomous agreement is foreseen (the topic has still to be decided between lifelong learning and disadvantaged groups). They will evaluate the results of the autonomous agreements.

Concerning the actors, there is a process of concentration on the trade union side. The 33 sectoral committees are covered by the eleven European trade union industry federations (EIFs) (UNI-Europa is present in eleven and Transport (ETF) in six). On the employer side, by contrast, representation is somewhat fragmentary. This is particularly true for civil aviation but also for the mining, banking and audiovisual sectors. At cross-industry level the solution was to integrate minor partners into the delegations: UEAPME with UNICE and Eurocadres with the ETUC. CEEP, which represented public enterprises, is now trying to reinvent itself by representing local public services. All the actors are confronted by the challenge of enlargement which implies organisational (more members, more languages), structural (more fragmentation, less membership) and political questions (global representativeness)

2. TEXTS ADOPTED: A CLASSIFICATION³

When trying to make sense of the huge amount of texts (more than 400 adopted by the sectoral social dialogue committees), we are confronted the problem of the real meaning of these texts. The official titles of the joint documents vary considerably: common opinions, declarations, resolutions, proposals, guidelines, recommendations, codes of conduct, social labels, etc. It is thus not possible to create meaningful categories on the basis of the official designations. In the study carried out for the Commission (OSE 2004) we distinguished between two broad categories. First, what we call the ‘reciprocal commitment’ between the social partners which corresponds to an internal commitment and secondly the ‘common position’, which covers documents intended for influencing the public authorities, first and foremost the European Commission.

3 At the Observatoire social européen we have created a database including all the joint documents signed by the social partners at European level covering the 33 official sectoral committees and the cross-industry social dialogue. This article will present the results of a quantitative analysis covering all 412 agreements adopted since 1978 (for an analysis covering the whole period see Pochet, 2006). This analysis is based on the reading and classification of all “joint texts” signed since 1978 at sectoral level.

With regard to 'reciprocal commitments', we distinguished five levels of commitment: 'tools', 'declarations', 'recommendations', 'agreements' and 'internal rules'. Let us spell out the differences:

a) Agreements

This category corresponds to agreements initiated between the European social partners (pursuant to Article 139 EU Treaty), intended for national organisations and with a follow-up procedure determining precise mechanisms and deadlines for implementation. Agreements may or may not be converted into directives.

b) Recommendations

This category comprises texts with relatively clear provisions addressed mainly to national organisations and for which a follow-up and evaluation procedure is laid down at national and European level. There is deemed to be follow-up if the text sets out (reasonably precise) procedures for national implementation and for a European-level evaluation of this follow-up at a given point in time. This is therefore a procedural definition. Follow-up as such should not be confused with implementation, which relates to substantive aspects.

c) Declarations

This category corresponds to 'declarations of intent' drawn up by the European social partners, intended for national organisations or for themselves, and where no explicit follow-up procedures are set out in the text or where the procedure is vague.

d) Tools (for training and action)

This category comprises various sub-categories: studies (only studies carried out jointly by the social partners and not by European and/or national consultants); handbooks; glossaries or databases.

e) Internal rules

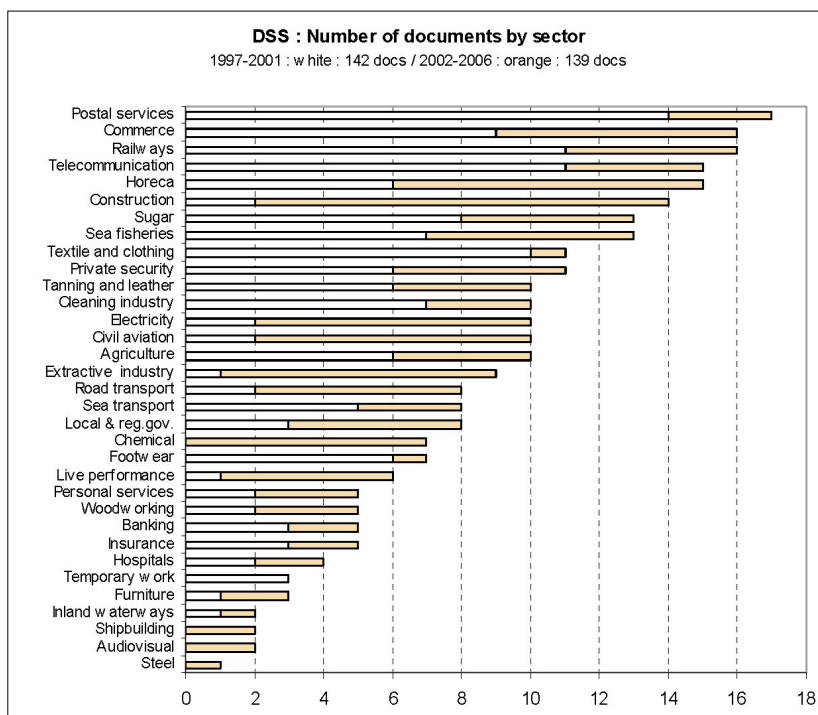
Internal rules are recognition agreements between the social partners.

f) Common positions

This category corresponds to texts addressed to the European institutions. These texts may be produced under very different circumstances.

3. A QUANTITATIVE ANALYSIS

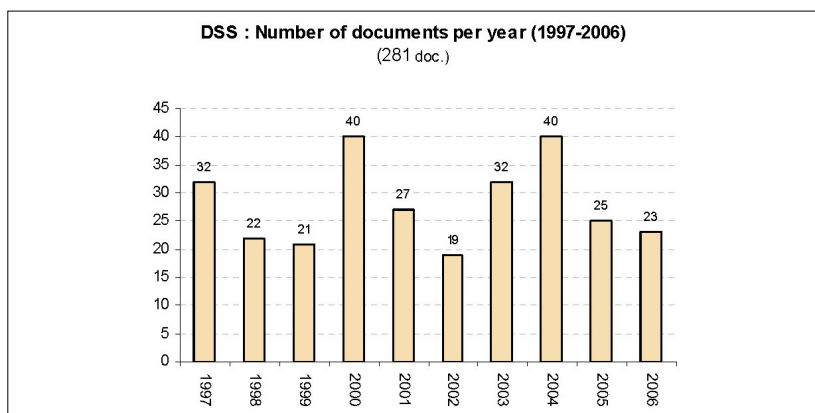
The advantage of a quantitative analysis is that we are able to cover all sectors and present the main global trends. The key question is the possible evolution from a dialogue centred on influencing European policies (mainly addressed to the European Commission) toward a more bilateral internal social dialogue. The second question bears on the binding nature of the instruments. We will present a set of graphs covering the number of documents signed per sector and per year; the number of agreements and recommendations per year, the nature of the documents, the topics covered and to whom they are addressed. We have broken down the 10 year period into two five year periods to be able to compare recent trends. We first present the results by sector.



What is striking is that the productivity (number of texts adopted) by sector is very different (note that the date of creation of the committees could be different too)⁴. This productivity is also changing, for example most of the joint texts in the postal sector were adopted in the first five years; the opposite is the case for the construction sector. *Per se* this indicator says nothing about the quality of the texts adopted. We will return to that below when analysing the agreements and the recommendations.

We now turn our attention to the total number of documents adopted per year.

4 When a committee is officially created as a SSDC we take into account the joint texts adopted before the official date of creation.



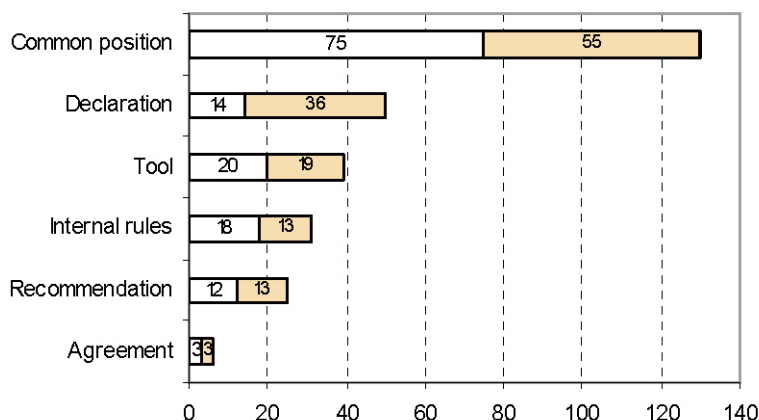
Concerning the number of documents adopted per year, there is not a clear trend. The maximum is reached in 2000 and 2004. It appears that the creation of the sectoral committees in 1999 did not modify the number of joint documents adopted which had already increased in 1997 and 96 not in the graph. The total in 2005 and 2006 is particularly low taking into account that the number of committees has increased since the beginning of the period analysed (less than one text per sector). The 2004 communication of the Commission trying to improve the quality of the sectoral social dialogue had no impact (or apparently a negative impact) on the quantity.

If in quantitative terms we cannot notice any influence of the EU communication, what about the quality? Do we notice a change in the nature of the documents adopted?

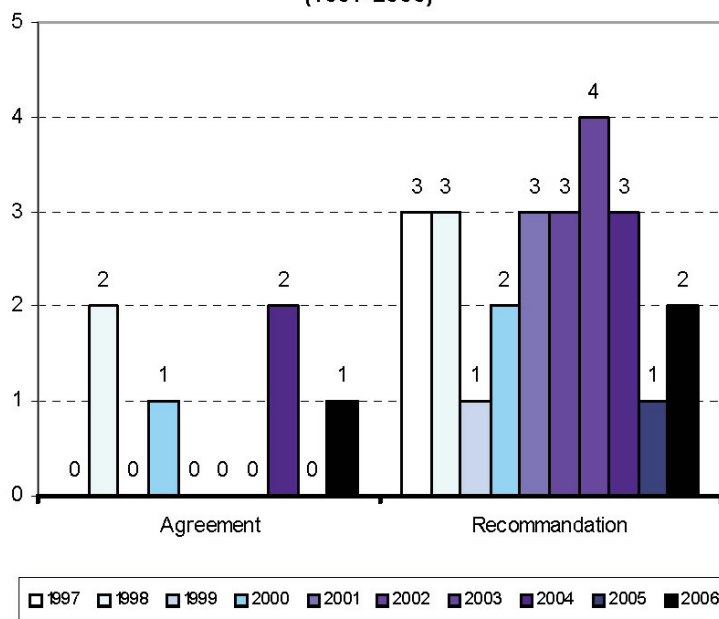
The first graph shows the type of text adopted and the second the distribution per year of agreements and recommendations, which are the more binding texts (we do not discuss here other categories which can also sometimes have an important impact, see Dufresne et al. 2006).

DSS : Number of documents per type (1997-2006)

1997-2001 : white : 142 docs / 2002-2006 : orange : 139 docs



Number of Agreements/Recommendations per year (1997-2006)



When comparing the two sub-periods of 5 years each, a first remark is that there is a rather stable number of texts adopted during both periods (142 against 139).

Clearly too there is no visible trend toward the adoption of more binding texts. 3 agreements were adopted in the first 5 year period and 3 in the second one. The main innovation was the silica agreement signed by one sector (mine sector) and a few employers and trade unions (not the same organisations). There is no evidence of a gathering momentum from “tools” towards “agreements”. It is worth mentioning that five of the six agreements were signed in the transport sector (for the list of agreements and recommendations see Annex 1).

As for the recommendations, 12 were signed during the first period and 13 during the second (a majority of recommendations are codes of conduct, CSR agreements and the like). If we consider the yearly distribution, the situation seems to be worse with a reduction in the number of recommendations over the last two years (table 3).

The main change is between the “common positions” with a clear decrease the last five years and the “declaration” with an even clearer increase.

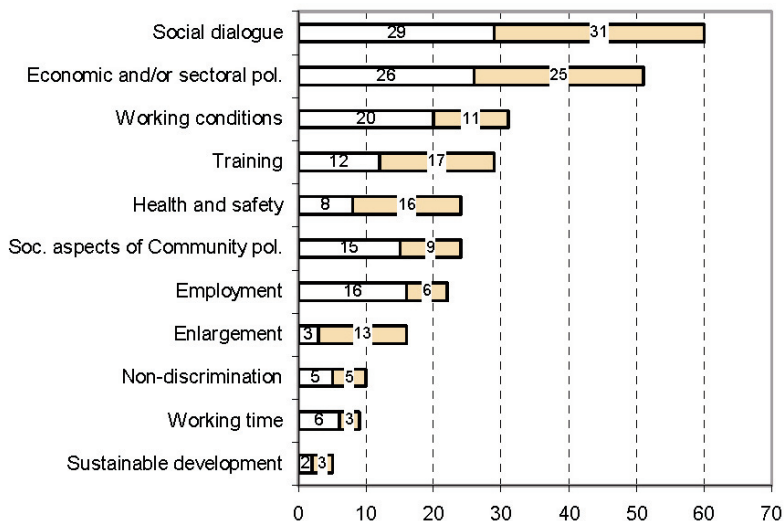
The communication of the Commission in 2004 speculated on the possibility of a qualitative change (a new generation of texts), meaning by that that more binding texts were being signed and hoping that this trend would continue. Clearly, the results of last two years do not confirm this hypothesis either in quantity or in quality.

Concerning the topics covered, social dialogue itself is the most important topic in quantitative terms (it is quite natural as the actors are struggling to establish the rules of the game (internal rules) at EU level and trying to promote social dialogue at all levels (codes of conduct, enlargement...).

The second topic concerns economic and sectoral policies which are the common positions addressed mainly to the Commission. Working conditions and employment are less important in the second period. Enlargement and training are more important in the second period.

DSS : Number of documents by topic (1997- 2006)

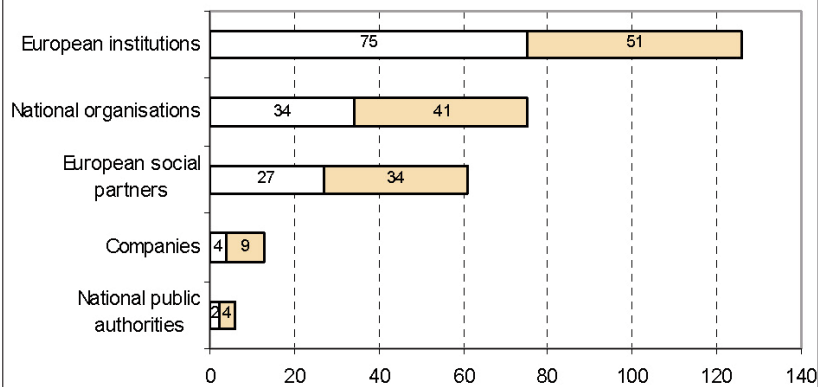
1997-2001 : white / 2002-2006 : orange



Concerning the addressees, the main difference between the two periods is a clear decrease in the category of documents addressed to the European institutions.

Number of documents per addressee

1997-2001 : white / 2002-2006 : orange



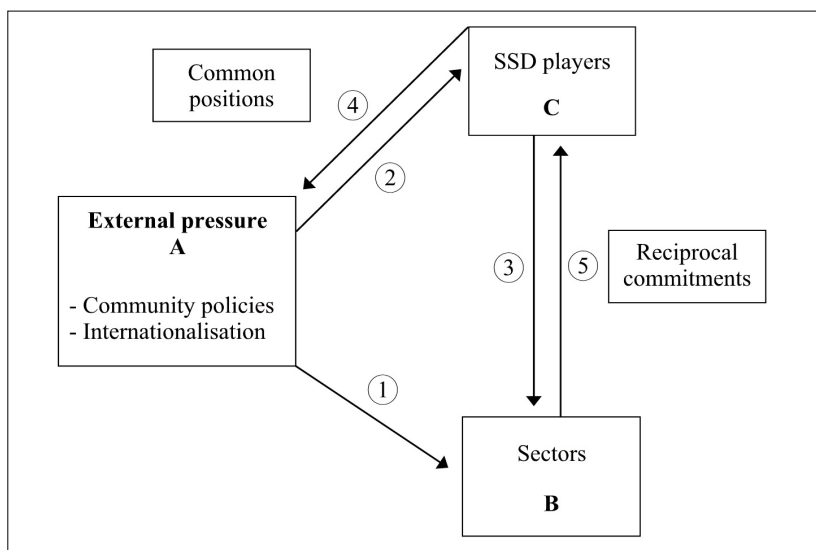
To sum up this section, we cannot find a clear tendency toward a more internal social dialogue. Influencing EU policies seems to remain an important part of the formal activities, but its importance is decreasing. The innovation has been the development of autonomous agreements (3 in the last three years). Nevertheless when compared with the nearly 35 sectors, this result remains unimpressive. As for recommendations, we notice no progress either in the number adopted, or in the process of verification of their implementation. In order to better understand future developments we have to explain the underlying dynamic.

3. NATURE OF THE EXCHANGE

In the previous section, we have mainly concentrated our analysis on the output (joint texts). Could we link these results with particular groups of sectors? In previous work (Dufresne et al. 2006), we have tried to establish a typology of six groups of sectors, each of which produces a particular type of document (Pochet et al. 2006).

In our analytical framework the external pressures from EU policies or global pressures were the key factor. A second factor is the tradition of the sector at national level which influences the construction of the EU actors. There is also an interaction between the nature of the external pressure and the organisation of the sector at national level. In our approach, although there are structural determinants, actors nevertheless play an important role. They have to invent some European “substance”, in other words why the EU level matters.

The diagram below summarise the interactions.



Based on this global framework and the analysis of the documents signed, we distinguish six groups of sectors.

The players in sectors which are in decline and heavily exposed to international competition handle the industrial and employment crisis by producing “codes of conduct”.

Those in sectors covered by integrated Community policies (Agriculture, Railways, Sea transport, Road transport, Civil aviation ...) attempt to build a European tier of industrial relations, in some cases even managing to sign agreements (in the narrow sense of the term).

The players in sectors forced to interconnect with one another (Telecommunications, Electricity, Postal services...), where there is a tradition of partnership, manage deregulation/privatisation by opening up space for negotiation and producing mostly recommendations.

Traditional sectors (banking, insurance) confine themselves to a more “conservative” social dialogue while searching for some truly European “substance”.

Finally, those sectors seeking to enhance their image (Private security, Cleaning industry, Personal services, Live performance, Temporary work...) construct such European “substance” with varying degrees of success, in certain instances by creating a sort of European quality label, trying to devise codes of conduct not based on ILO standards (ethical, for example).

The commerce sector (and to a lesser extent local government) is a separate case, experimenting with a variety of social dialogue instruments in a bid to better highlight its specific characteristics.

Table X: Correspondence between social dialogue categories and types of joint document adopted

	Category 1	Category 2	Category 3	Category 4	Category 5	Category 6
External environment: degree of integration with Community policies	Very strong	Average + considerable EU legislative activity	Average + little EU legislative activity	Weak	Weak	Specificity of services versus industry
Exposure to international competition	Controlled	Weak	Weak	Strong	Weak	Benefits from international competition (lower prices) or is not sensitive to it
Sectors concerned	Agriculture Fishing Railways Sea transport Civil aviation Road transport Inland waterways Mines	Telecommunications Electricity Postal services ----- Construction	Banking Insurance ----- Chemicals	Textiles/clothing Tanning Footwear Sugar Wood-working Furniture Ship-building	Private security Cleaning industry Personal services Live performance Temporary work Audiovisual ----- Horeca	Commerce Local and regional government

The various dynamics illustrated by the typology also indicate that only for the first group do we expect autonomous agreements. For the others, the outcome should be at best recommendations. But new external pressures (globalisation, new technology, EU sectoral directives) could change the situation.

CONCLUSION

The purpose assigned to social dialogue depends partly on our vision of Europe. According to a classic federalist vision, its purpose is to take up or coordinate the

key elements of national trade union objectives and develop a multilevel industrial relations system (Falkner 1998). According to a more experimental-type vision, European social dialogue is aimed more at innovating, in respect of both themes and instruments (Pochet 2003). For the time being, the European sectoral and cross-industry social dialogues are manifestly following the latter approach which is not the first choice of the trade unions: they would prefer to have more classic, binding instruments, and would like the effects not to be confined just to a few representatives meeting in Brussels.

Our general conclusion is that the cross-industry and the sectoral social dialogues – albeit in largely different ways – are converging towards the production of texts which are not legally binding but are increasingly coming to resemble codes of conduct or optional guidelines: what we have called recommendations (very similar to soft law). Thus implementation is the task of decentralised stakeholders, perhaps with moral pressure exerted on those who fail in their duty.

Another aspect is the increasing number of sectoral committees (a few new ones should be agreed in 2007). This indicates at least a “conservative” interest of sectoral employers’ associations in entering the game (by conservative we mean controlling future development) which could perhaps change into a more proactive attitude. In our framework (section 4) we point out that external pressure (increasing competition from India and China, the new technological revolution – telecoms, commerce) could perhaps lead to new approaches. Nevertheless, the main challenge to be addressed will be on the one hand enlargement and thus the global representativeness of the actors at national and EU level, and on the other hand the implementation and monitoring of agreements.

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ANNEXE 1

1. AGREEMENTS

Sector	Date	Agreement	Directive
Mining and others	2006	Agreement on Workers Health Protection through the Good Handling and Use of Crystalline Silica and Products containing it	
Sea transport	1998	Agreement on the organisation of working time	Council Directive 1999/63/EC of 21 June 1999
Civil aviation	2000	Agreement on the organisation of working time of mobile staff	Council Directive 2000/79/EC of 27 November 2000
Railways	1998	Agreement on some aspects of the organisation of working time	
	2004	Agreement on the European licence for drivers carrying out a cross-border interoperability service	
	2004	Agreement on certain aspects of the working conditions of mobile railway workers	Council Directive 2005/47/EC of 18 July 2005

2. RECOMMENDATIONS

Sector	Date	Recommendation
Agriculture	1997	Recommendation framework agreement on the improvement of paid employment
	2002	Agreement on vocational training
	2005	European agreement on the reduction of worker's exposure to the risk of work-related musculo-skeletal disorders
Commerce	1999	Agreement on Fundamental Rights and Principles at Work
	2001	Guidelines on Telework
	2003	Joint statement on Corporate social responsibility
	2006	Social partners sign letter of intent – BeQuaWe European Certified Training
Electricity	2002	Joint declaration on telework
	2003	Joint declaration on equal opportunities / diversity
Footwear	1997	Charter of children rights
	2000	Code of conduct
Hairdressers	2001	Code of conduct
Horeca	2004	An initiative for improving corporate social responsibility
local and regional government	1998	Joint declaration on equal opportunities
	2004	Joint statement on telework
Mining	2004	Joint declaration on general questions of health and safety
Postal	1998	Agreement-Promoting employment
Private security	2003	Code of conduct and ethics
Road Transport	2006	Joint recommendations on employment and training in logistics
Sugar	1998	Apprenticeship. Joint recommendation
	2003	Corporate social responsibility : Code of conduct
Tanning and leather	2000	Code of conduct
Telecom	2001	Guidelines for telework
Textile	1997	A charter. Code of conduct
Woodworking	2002	Code of conduct

THE ROLE OF COLLECTIVE BARGAINING IN THE EUROPEAN SOCIAL MODEL

Franz Traxler

INTRODUCTION

Any debate on the European Social Model faces a normative problem and an empirical problem. The normative problem is that distinct groups may vary in their view of what constitutes a desirable social model. Furthermore, what may be desirable may be unrealistic and unfeasible. The problem is that the established social models differ a good deal throughout Europe. Hence, one has to take account of normative considerations in a way that matches reality in a significant number of countries. When combining these normative and empirical considerations, one arrives at four constituent properties of the European Social Model (Table 1): one property is consultation of organized business and labour in matters of public policy. Another property is an inclusive welfare state, jointly administered by the social partners, and covering a wide range of social risks and the vast majority of the population. A third property is partnership in the company. This means that employee representatives are formally recognized as the voice of labour in the company. Finally, there is the property of self-governance by the two sides of industry. Self-governance rests on the devolution of public tasks to organized business and labour. Its most important component is an inclusive system of collective bargaining. A bargaining system is inclusive if it equips the bargainers with a strong grip on the labour market. As a rule of thumb, we can say that a bargaining system is inclusive if more than 50 percent of the employees with the right to bargain are actually covered by collective agreements.

This understanding of the European Social Model makes clear that collective bargaining makes an essential contribution to the Model: An inclusive bargaining system is not only one of the properties of the European Social Model but also its cornerstone, since the persistence of the three other properties depends on such a bargaining system. This key role of bargaining is quite obvious in the case of partnership in the company. Employee workplace representatives cannot exist without

supportive collective agreements. In some countries, namely the Scandinavian ones, the main collective agreements provide the legal basis for recognition of employee representatives in the company. In other countries, labour law provisions for such representatives are supplemented by collective agreements. The interplay of bargaining and consultation is less evident. However, a cross-national comparison shows that organized business and labour have significant rights of participation in public policy only in countries, where an inclusive bargaining system exists (Traxler 2004). This is because only a bargaining system which is so inclusive that its agreements matter in macroeconomic terms can set an incentive for governments to seek cooperation with the bargainers on a regular and repeated basis. If collective bargaining coverage is so low that collective agreements fail to have a notable effect on the economy, governments can easily ignore the bargaining parties. An analogous relationship applies to the participation of organized business and labour in the administration of the welfare state. Generally, the willingness of the state to incorporate organized business and labour in public policy increases with their ability to govern the labour market through an inclusive bargaining system.

THE STRUCTURAL PRECONDITIONS FOR AN INCLUSIVE BARGAINING SYSTEM

The above considerations raise the question as to what structural properties give rise to an inclusive bargaining system that covers the majority of employees in a country. The key prerequisite for an inclusive bargaining system is the predominance of multi-employer bargaining, as compared to systems of single-employer bargaining. While single-employer bargaining refers to one company or its sub-units, multi-employer bargaining, as conducted by employer associations, covers one sector or several sectors. Multi-employer bargaining ensures a high level of collective bargaining coverage in combination with one of two conditions (Traxler et al. 2001): either a high rate of unionization or legal provisions designed to extend the purview of multi-employer agreements to employers who are not affiliated to the signatory employer association. Single-employer agreements are at odds with an inclusive coverage rate. On the one hand, they set an incentive for companies to de-recognize trade unions in the workplace, so as to dispense with the collective agreement. On the other hand, legal provisions for extending collective agreements to uncovered employers are not applicable to single-employer agreements. This means that the predominance of single-employer bargaining in a country results

in an exclusive bargaining system, where only a small number of rather powerful employee groups are able to maintain collective relations with business. Over time, one can observe a growing divergence between systems of single-employer bargaining and systems of multi-employer bargaining, as far as trends in collective bargaining coverage are concerned (Traxler 1996, Traxler et al. 2001). In the case of single-employer bargaining, the present situation of slack labour markets and intensified inter-firm competition in product markets fuels the employers' tendency to de-recognize unions and to dismantle collective bargaining. Likewise, new companies have good reason not to enter into collective bargaining, something which is easier than eradicating an existing bargaining structure. This contrasts with systems of multi-employer bargaining which are backed by either strong unions or pervasive extension practices. Facing strong unions, employers will prefer multi-employer bargaining over single-employer bargaining, since the former contains "whipsawing" union tactics aimed at confronting companies individually. Under the condition of pervasive extension practices, union de-recognition or union avoidance does not help an employer to withdraw from collective bargaining. Moreover, any single employer will be too weak to do away with multi-employer bargaining, all the more so since multi-employer bargaining usually suits the interests of certain employer groups as well as the survival goal of the employer associations themselves. As a consequence of this configuration of power and interests, collective bargaining coverage has remained rather high and stable in countries with predominant multi-employer bargaining, whereas coverage has more or less declined in countries where single-employer bargaining prevails.

The fact that multi-employer bargaining is the decisive factor behind inclusive bargaining systems also helps to explain how inclusive systems achieve macroeconomic relevance that attracts governments. Given a high coverage rate, the bargainers' ability to govern the labour market increases with their capacity to coordinate their bargaining strategies across the economy – in line with macroeconomic requirements, such as employment, economic growth and price stability. Coordination of bargaining across the economy does not necessarily presuppose centralization of bargaining. Since a small number of multi-employer agreements usually are of utmost importance to the economy, their coordination is sufficient for achieving macroeconomic relevance. Such coordination may take place in a rather decentralized framework, such that the agreements for certain key sectors set the pattern for the bargaining units in other sectors.

NATIONAL BARGAINING SYSTEMS

Given this contrasting profile of single-employer bargaining and multi-employer bargaining, it is important to examine what bargaining system is established in the EU member states.

Table 2 provides information about the predominant bargaining level, union density, extension practices and coverage in the EU member states.¹ All the old EU members but the UK record an inclusive level of coverage as a consequence of predominant multi-employer bargaining that is usually backed by extension and/or high union density. With the exception of Cyprus, Slovenia, and – less markedly – Slovakia, the opposite pattern applies to the new member states. This is the predominance of single-employer bargaining in combination with low rates of unionization. The main reason for this is that the prevalence of single-employer bargaining makes extension unfeasible, even when statutory provisions for extension are established. Since this situation coincides with low union density, only a minority of employees is covered by collective bargaining.²

The upshot of these considerations is that two contrasting bargaining regimes divide the enlarged EU: one regime characterized by multi-employer bargaining and high levels of bargaining coverage, whereas single-employer bargaining and low coverage constitute the other regime. This divide largely reflects the demarcation line between high-wage countries and low-wage countries.

The fact that collective bargaining is fragmented into diversified national systems contributes to the lack of coherence in economic and social policy in Europe. The fundamental divide between two contrasting bargaining regimes exacerbates this problem. At *national* level this pattern of fragmentation and division threatens to undermine the European Social Model in those countries where it exists; it also blocks the development of the Model at *supranational* level. Fragmentation and

- 1 In Austria and Slovenia collective bargaining is buttressed by a mechanism which works as a functional equivalent to pervasive extension: the compulsory membership of employers in the country's principal employer associations. Another functional equivalent to pervasive extension practices can be found in Italy. According to the country's constitution, minimum conditions of employment must apply to all employees. Labour court rulings relate this principle to the multi-employer agreements, such that they are seen as generally binding (IST 2001).
- 2 Some sources report coverage rates for Latvia and Poland which strongly exceed union density. However, cross-national evidence shows an almost monotonic correlation of coverage and density in a context of single-employer bargaining (Traxler et al. 2001), implying that these figures on Latvia and Poland are inflated. In the case of Hungary, where single-employer bargaining also prevails, the higher coverage can be explained by a notable spread of collective agreements concluded jointly by a limited number of companies.

division tend to undermine the European Social Model at national level, since they give rise to downward pressures on labour standards caused by competitive, national bargaining policies. In other words, superior transnational mobility enables capital to play off different national production sites against each other, giving rise to tendencies of "regime shopping" (Streeck 1992). Therefore, even inclusive national bargaining systems run the risk of losing their protective function for employees. In the context of the single market, bargaining systems, whose inclusiveness is formally limited to the scope of the nation state, increasingly lose their inclusiveness in practice. Furthermore, fragmentation and division block the development of the European Social Model at supranational level, since the positive correlation between bargaining power and participation in public policy applies not only to the national level, but also to the supranational level. Inclusive control over the labour market is the precondition for participation in public policy. This means that the ETUC and its European Industry Federations can only breathe life into such supranational bodies as the macroeconomic dialogue once they prove their capacity to orchestrate the unions' bargaining strategies across Europe, in such a way that their bargaining policies achieve macroeconomic relevance by European standards. Likewise, overcoming the existing fragmentation and division is also a precondition for relieving European works councils of the pressures deriving from regime shopping, which greatly restrict their capacity for action.

THE PROBLEMS OF TRANSNATIONAL BARGAINING COORDINATION

The only option for trade unions to overcome the risks of "a race to the bottom", and to become an actor of macroeconomic importance at European level, is a strategy of transnational coordination of national bargaining systems, such that the scope of coordination activities matches the degree of transnational market integration. In this respect, two points are worth mentioning. First, it is the unions which must bear the burden of initiating a transnational approach to collective bargaining, since the employers are the beneficiaries of the nationally fragmented industrial relations system due to their superior cross-border mobility. However, if the unions can prove their capacity for transnational action, the employers will find themselves compelled to embark on transnational collective action as well. Unilateral coordination by trade unions will thus provoke a similar development on the employers' side, something which may develop into direct negotiations at supra-

national level. Second, the unions have no alternative to the transnational coordination of national bargaining, since neither of the two genuine European industrial relations institutions (i.e. the European Social Dialogue and the European Works Council) is suited to combating regime shopping and its downward pressure on labour standards. The European Works Council only has rights of information and consultation as opposed to bargaining rights. The regulation of wages, which is at the heart of industrial relations, is excluded from the purview of the European Social Dialogue. Furthermore, European-level collective bargaining is not feasible for several reasons, namely the disinterest of the employers.

In response to this situation, ETUC and its Industry Federations have launched attempts at transnational coordination in several sectors since the mid-1990s. They have deployed their coordination initiatives along sector-specific lines of affiliation, since regime shopping primarily takes place within a certain sector and workers are substitutable for each other within sectors rather than across sectors. Another reason for the unions' sector-related approach is that the sector is usually the level at which multi-employer bargaining takes place. The basic idea of all these coordination activities is that the national unions should orient their bargaining strategies towards common principles. In this respect, debates and decisions within the framework of the ETUC centre on productivity growth and inflation, which are seen as the key points of reference for national bargaining and their insertion into a transnationally oriented bargaining strategy.

Aside from this, the initiatives differ in their stage of development, formal status and coordination mechanisms (e.g. Dufresne and Mermet 2002, Gollbach and Schulten 2000, Marginson and Sisson 2004). Despite these differences, they share several problems. They arise from the fact that transnational coordination cannot be carried out without corresponding coordination activities within the nation-states. The national bargaining institutions ensuring the *national* capacity for coordination must serve as the infrastructure for *transnational* coordination. This creates three main problems.

The first one concerns the scope of transnational coordination. As already noted, multi-employer bargaining is an essential precondition for effective bargaining coordination. Under the predominance of single-employer bargaining, sector-level coordination is only possible if there is a strong union presence in a few very large companies, such that the collective agreements for these companies set the going rate for other companies. Even under these favourable circumstances, however, important problems remain in this case of cross-company coordination. The scope of such coordination is likely to be narrower than that of conventional sector-level bar-

gaining. Most essentially, union-led cross-company coordination within the confines of single-employer bargaining runs the risk of becoming self-defeating due to incomplete bargaining coverage of the target sector. Within one and the same sector, unionized companies covered by a single-employer settlement must then compete with non-unionized, uncovered companies that have lower labour costs than the former. For the above reasons, this sets a very strong incentive for employers to pursue an anti-union policy as the prerequisite for abandoning or avoiding collective bargaining.³ At any rate, in many of the new member states, neither multi-employer bargaining nor such specific preconditions for coordination via key single-employer settlements exist.

The second problem is that the ongoing changes in the economy threaten to erode the capacities for bargaining coordination in those countries where these capacities exist. In this respect, there are two main challenges: resulting from the spread of economically dependent self-employment on the one hand, and from continued bargaining decentralization on the other. Employers tend to outsource activities by subcontracting to self-employed persons as a means of avoiding social security contributions as well as coverage by labour law and collective agreements (Vaughan-Whitehead 2004). The protective function of collective bargaining will be increasingly eroded if the unions fail to extend its purview to the group of economically dependent self-employed. In the course of bargaining decentralization, bargaining tasks have shifted from multi-employer level to management and employee workplace representatives since the mid-1980s. In the UK this unleashed a process of disorganization, leading to widespread collapse of multi-employer bargaining. For the above reasons, this has given rise to a sharp decline in collective bargaining coverage. This disorganized decentralization contrasts with organized decentralization which has been characteristic of most of the other EU-15 countries (Traxler 1995). Organized decentralization means that the multi-employer agreement deliberately delegates certain bargaining issues to the parties to local bargaining (i.e. management and employee workplace representatives). At the same time the multi-employer agreement sets a binding framework for local bargaining. Even where multi-employer bargaining has thus maintained formal control over the decentralization process, containing downward pressures on labour standards has become more difficult. This is because continued bargaining decentralization may become so thoroughgoing that multi-employer bargaining actually loses control over local bargaining. For instance, hardship clauses and company pacts on em-

3 The United States provide striking evidence of such tendencies.

ployment and competitiveness, even though fixed within the framework of a multi-employer agreement, may undermine the agreement's impact on wage formation. This impact also becomes weakened if one limits multi-employer bargaining to preserving real wages, whereas real wage increases are left to the insecure capacity of local bargaining.⁴ Another difficulty with organized decentralization is that the more decentralized national bargaining is, the more difficult it becomes to evaluate the effectiveness of transnational coordination.

This brings us to the third problem of transnational bargaining coordination. In principle, there is a complementary and mutually supportive relationship between the national and transnational *institutions* of bargaining coordination. At the same time, however, a contradictory element has also characterized this relationship so far. The reason for this is that the national institutions of coordination have been used for advancing competitive bargaining *policies* aimed at improving one's own competitiveness in relation to trading partners. In contrast to this, transnational coordination tries to overcome precisely this competitive priority. National bargaining coordination designed to moderate wages and to enhance competitiveness may crowd out transnational coordination efforts to overcome competitive bargaining strategies.

Overall, the problems are considerable when it comes to building an effective system of transnational bargaining coordination. However, there is no alternative to these efforts. Since inclusive bargaining is the cornerstone of the European Social Model, the erosion of bargaining will spill over to affect the Model as such.

CONCLUSIONS

The position of trade unions in society as well as the future of the European Social Model mainly depend on the system of collective bargaining. In countries where the European Model is established in the manner summarized in Table 2, defending this Model primarily means retaining multi-employer bargaining. This is because only a system of multi-employer bargaining can cover the majority of a country's employees, something which ensures sustained participation of organized labour

4 A case in point is Italy. According to the pact of 1993, sector-level bargaining is devised to compensate for inflation, whereas agreements on real wage increases are delegated to company management and employee workplace representatives, with the exception of a few branches where the lower bargaining level is regional. However, such single-employer agreements have been concluded only for a minority of Italy's workforce (Pedersini 2005).

in matters of economic and social policy. As the case of the UK demonstrates, the welfare state as well as the European Social Model as a whole declines if multi-employer bargaining fades away.

However, as a consequence of European economic integration, national strategies are no longer sufficient when it comes to maintaining the European Social Model. In response to the single market and European Monetary Union, there is a need to deploy a transnational strategy of collective bargaining. This includes strengthening trade union movements in the new member states, such that they can participate in the transnational coordination process. One important goal of these efforts is to stimulate the rise of multi-employer bargaining which is underdeveloped in most of the new member states (Table 2). It is certainly not realistic to expect that an effective system of multi-employer bargaining will evolve in all countries. However, effective transnational bargaining coordination across Europe does not require complete participation of all countries and sectors (Traxler 2002). This is evident from experiences with successful national practices of cross-sectoral coordination of collective bargaining. What follows from these experiences with regard to an EU-wide coordination of collective bargaining is that the participation of a "critical mass" of countries is needed which is of such macroeconomic importance to Europe as a whole that the effects of transnational coordination activities among the participating countries spill over to those countries which do not participate.

Table 1: Properties of the European Social Model

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- Consultation: participation of organized business and labour in state-led public policy
 - Self-governance: inclusive collective bargaining and other devolved public tasks (e.g. training; public programmes to aid business)
 - An inclusive welfare state, jointly administered by organized business and labour
 - Partnership in the company, based on formalized systems of employee workplace representation
-

Table 2: Union density, bargaining level and coverage in the European Union, 2000-2001

	Collective bargaining coverage*	Predominant level of collective bargaining ^{a,b,d}	Union density	Extension practices**
Austria	98	MEB	35.7	2
Belgium	96	MEB	55.8	2
Denmark	83	MEB	73.8	0
Finland	81 ¹	MEB	71.2	2
France	90-95	MEB	9.7	2
Germany	67	MEB	23.5	0
Greece	n.a.	MEB	26.72	1
Ireland	n.a.	MEB	35.9	0
Italy	n.a.	MEB	34.8	2
Luxembourg	59	MEB	33.5	1
Netherlands	88	MEB	22.5	1
Portugal	87	MEB	24.0	2
Spain	86	MEB	14.9 ²	2
Sweden	91-94	MEB	78.0	0
UK	36	SEB	30.7	0
EU-15 ***	80.5	MEB	38.1	-
Czech Republic	25-30	SEB	27.0	0
Estonia	14e	SEB	16.6	0
Hungary	35	SEB	19.9	0
Latvia	< 20	SEB	20.0	0
Lithuania	10-15	SEB	16.0	0
Poland	1-15	SEB	14.7	0
Slovakia	49.5	MEB	35.4	1
Slovenia	100	MEB	41.0	2
EU-8 **	33.3	SEB	23.8	-
Cyprus	65-70	MEB	70.0	n.a.
Malta	n.a.	SEB	63.0	0
EU-2 **	-	-	66.5	-
Total EU **	61.9	MEB	35.8	-

Notes: MEB = multi-employer bargaining, SEB = single-employer bargaining, 1 = 1996, 2 = 1999. * Ratio of the number of employees covered by a collective agreement to the total number of employees. ** Un-weighted average for available countries, taking the upper threshold of coverage in Latvia. If data on coverage are documented as a range, the mean of its lower and upper limit was used for calculating the un-weighted average. *** Functional equivalents included: 0 = non-existent/irrelevant, 1 = limited, 2 = pervasive; n.a. = not available

Data on density and coverage are standardized for EU-15, i.e. without unemployed, self-employed, retired and student union members (except Portugal) in the case of union density; adjusted for employees without the right to bargain (except Germany and the UK) with regard to bargaining coverage.

Data sources: Carley (2002), IST (2001), Kohl and Platzer (2003), Traxler and Behrens (2002), Franz Traxler data set, Visser (2004)

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AN OPTIONAL FRAMEWORK FOR TRANSNATIONAL COLLECTIVE BARGAINING: OLD WINE IN NEW BOTTLES OR A MAJOR BREAKTHROUGH?

Berndt Keller

INTRODUCTION

The idea of transnational collective bargaining (TCB) at European Union level is by no means new despite the fact that bargaining activity still takes place at national level exclusively. Its attractiveness, or, from a trade union point of view, its necessity, was heightened by the introduction of Economic and Monetary Union (EMU) as well as by an escalating number of transnational mergers and acquisitions. More recently, TCB activity has been growing to a certain degree (European Commission 2006a, EIRR 2006). So far there exists, however, no comprehensive and specific legal frame of reference which could be of major importance not only for TCB but also for the future of social integration and the development of a European social model.

Recently the so-called Ales committee a group of labour law academics, presented its report "Transnational Collective Bargaining: Past, Present and Future" which was commissioned by the European Commission (Ales et al 2006). In this article we will discuss its proposals and recommendations not only in terms of labour law (Schmidt 2006, Weiss 2007) but mainly from an industrial relations point of view. This perspective includes not only problems of concluding agreements but also foreseeable difficulties of implementation, monitoring and enforcement of results ("administering the employment relationship"). Thus, our analysis of "constraints and opportunities" complements the existing legal evidence and proposals.

The first part of the report, which consists of a comprehensive summary and appraisal of the "autonomous development of transnational collective sources", is of less importance for our purposes and, with the sole exception of transnational co-ordination, will not be dealt with in great detail. In the second part the Ales committee argues in favour of "a legal framework on transnational collective bargaining". A Council directive should be passed, providing an optional framework for a

European Union TCB system “with legally binding effect” instead of the existing non-binding agreements.

Some major caveats are as follows. TCB can take place at European and/or global level. This distinction is of major importance for our analysis. Some existing texts which result from transnational negotiations are of a more global nature and have been signed by management and global union federations (GUFs) or other international trade union organisations (European Commission 2006a, EWCB 2006). These “International Framework Agreements” will not be taken into consideration in our analysis, which focuses exclusively on the European level and its specific frame of reference. At this level all forms of regulation are still difficult but comparatively easier to achieve than at the global one.

Basically there are three levels for such developments: the company, sector, and cross-industry level. We will deal with each in turn. It has to be kept in mind that the level of TCB also has implications for national IR. Any legal framework would have to include regulations on procedures and negotiating agents, as well as the necessary conditions for agreements once concluded to have binding effect.

TCB AT COMPANY LEVEL

Interestingly enough, the Ales committee deals with collective bargaining at the enterprise or company level (“transnational tools at company level”) and argues that its importance has increased in recent years. Its major issues are “soft” ones (among others, social and union rights, corporate social responsibility or company restructuring).

So far, European Works Councils (EWCs) have purely been agencies for “information and consultation” without formal legitimacy or practical competence to bargain collectively. There are, however, some exceptions (European Commission 2006a, Arrowsmith/Marginson 2006). In the long run, and probably even irrespective of the existence of any legal, “optional framework”, at least some EWCs (or any other organ representative of employee interests) could become engaged in negotiations with “their” management for reasons of self-interest. This transformation of EWCs would advance their present status to equal “negotiating partners” and broaden their rather limited scope of activity to a considerable degree.

If EWCs managed to modify their present status this paradigm shift would, however, have far-reaching consequences. By definition, this specific kind of TCB would be limited to multinational companies whose interests (let us assume on issues such

as company restructuring, work organisation, working time or re-training and further training) could be handled at this level of negotiation. All results would be of a highly “flexible”, company-specific nature – and would be in line with management’s interests of adaptability, competitiveness or restructuring.

Agreements would not have a legal status of their own – but would not necessarily require it. In empirical terms, protracted problems concerning the implementation of the results concluded (including the necessary binding effect as well as the widely neglected “follow-up” provisions for enforcement of compliance) would be easier to solve than within the other alternatives we examine: sectoral or cross-industry level. The basic reason is that it would require only management’s willingness to commit itself, whereas all agreements at sectoral level would require complicated concerted action by national organisations and their individual members on both sides of industry.

Such developments at company level would, however, remove important pillars from national systems of collective bargaining, and thus create non-intended consequences at a different level. In that regard this specific kind of TCB would not be “complementary” to national systems and not just add an additional level of bargaining as the Ales committee takes for granted. The relationship between the various levels of collective bargaining and concluded norms is more complicated than explicitly assumed in the report. Moreover, already existing differences between companies in the same sector as well as between sectors would be likely to persist if not to increase (Arrowsmith/Marginson 2006).

Furthermore, the Ales committee fails to mention one major consequence. Existing national systems of IR would be unevenly affected. Systems of sectoral collective bargaining (“multi-employer bargaining”) which dominate in continental Western European countries (Traxler et al. 2001) would in particular suffer from such developments in the long run, whereas systems of enterprise bargaining (“single-employer bargaining”) which dominate in the new member states (Traxler, this volume) would be less affected. All in all, such developments would strengthen already existing trends towards decentralisation if not even fragmentation (towards various, widely differing collective agreements in the same sector). All in all, they would reinforce trends of divergence instead of leading to any kind of convergence.

Last but not least, the consequences for trade unions of TCB at company level are difficult to predict. Among others, their existing affiliations with EWCs have no legal basis in the Directive and differ significantly from an empirical perspective (Kerckhofs 2006). Very probably, trade union organisations at national as well as European level would be weakened by the introduction of TCB. Their formal inte-

gration into these processes would complicate already existing procedures. The existence of employers' organisations at sectoral level would not constitute a necessary institutional prerequisite for this path of development. Thus, one major problem for TCB at other levels would not exist within this specific variant.

TCB AT SECTORAL LEVEL

In contrast to TCB at company level there would be no doubt about potential "negotiating agents". Sectoral unions and employers' organisations would be corporate actors who would constitute the necessary institutional prerequisite for TCB at this level. On the employees' side, sectoral associations, the European Industry Federations (EIFs), exist and are fully integrated into ETUC's organisational structure and processes of policy making. They are representative associations for their organisational domains and would in principle be willing to negotiate. On the employers' side, UNICE has no equivalent sub-structure at the sectoral or branch level within its highly fragmented structure. In some sectors organisations do not even exist – and the bulk of existing ones are rather weak in terms of resources. The majority are not specific employers', but general economic and industrial, associations whose main purpose is lobbying activities and not collective bargaining. They are, therefore, not well equipped (and not mandated by their member organisations) for TCB. The aim of the purely voluntary, informal "European Employers' Network" is the horizontal as well as vertical exchange of views and information on a purely voluntary basis – but definitely not processes of formal decision-making or a mandate for TCB.

In this regard, the Ales committee's recommendations which are based on "employers' organisation(s) at sectoral or multi-sectoral level" (p.43) are highly unrealistic. UNICE is not interested in any kind of TCB and will not, therefore, push for the establishment of appropriate sub-structures. In the mid/late 1990s, after the regulatory regime of the Maastricht Treaty and its Social Protocol introduced new stricter rules, UNICE engaged in some cases (parental leave, part-time work, fixed-term contracts) in "bargaining in the shadow of the law". The reason was that the Commission's political threat to intervene in cases of failed negotiations was immanent and credible ("negotiated legislation").

Last but not least, another related option for future action, which is mentioned by the Ales committee, would be the conclusion of framework agreements between international sectoral unions and individual companies. Problems would include mandating (in this case especially on the employees' side) as well as implementa-

tion, the monitoring of commitments concerning the results achieved and possible sanctions in cases of non-compliance.

TCB AND SOCIAL DIALOGUES

In this specific context of TCB at sectoral level, social dialogue (SD) has to be explicitly mentioned. SD as an instrument and tool of EU social policy making (according to Article 138 and 139 TEC) has existed at both the cross-industry and the sectoral level for quite some time. More recently, public interest has shifted from the macro to the sectoral level which is of more interest for purposes of TCB. In 1998 the Commission abolished all existing institutional frameworks (Decision 98/500/EC) and introduced Sectoral Social Dialogue Committees as new structures. Since then the overall number has slowly increased to more than 30 (European Commission 2006b) without, however, leading to higher “productivity” or more output.

SD should by no means be confused with collective bargaining (for the contrary opinion see Avilés 2005). The relationship between both forms of interest representation is far from being transparent and unambiguous. Are they supposed to constitute alternatives or complements? Our verdict refers to the levels as well as to various stages of development. There are numerous reasons for qualitative differences. First of all, SD deals with an encompassing range of “soft” issues whereas collective bargaining would also have to cope with “hard” topics (including wages and salaries). Lobbying work to influence EU policies and third parties’ activities (among others, joint opinions, declarations and common positions) constitute the vast majority of results (OSE 2004). Therefore, SD is different from collective bargaining which, by definition, includes mutually binding commitments. Finally, the results of sectoral SD are non-binding in nature and must be implemented by the social partners themselves at national/sectoral level – without legal support from public authorities.

In contrast to various official statements (including the Ales report, p. 12), the mere existence of Sectoral Social Dialogue Committees should not be confused with their proper functioning and successful operation. In terms of results there are significant differences and heterogeneous developments within as well as between sectors (Keller 2006, Pochet, this volume). More recently, the nature of SD has changed from trilateral (including the Commission as an important corporate actor) to bilateral arrangements (between the social partners exclusively). This shift towards more “autonomy” leads to the consequence that the Commission is not the prime

mover or agenda setter any longer, but the social partners themselves have to take the initiative from the beginning and have to be in charge of problem solving at all stages of the policy cycle. Recent so-called “new generation texts” suffer from this fundamental change.

TRANSNATIONAL COORDINATION AT SECTORAL LEVEL – A POSSIBLE WAY OUT?

Surprisingly enough, one rather prominent approach is not even mentioned in the Ales report. The most likely reason is because of its purely voluntary nature. Since the late 1990s several national unions have experimented with new forms of mutual information, purely voluntary cooperation and cross-border coordination of collective bargaining, especially (but not exclusively) wage bargaining. Their joint policy statement is that wage increases should be the sum of price increases and the increase in productivity. Downward spirals and trends towards “wage dumping” are supposed to be prevented by this kind of informal but hopefully effective European coordination (Schulten/Bispinck 2001). Collective bargaining remains at national level despite these new forms; any kind of “harmonisation” of existing heterogeneous systems at national level is definitely not intended. In clear contrast to the above-mentioned sectoral social dialogue, the focus is on “hard” and, therefore, potentially conflictual issues. The declaration and the “wage formula” of the so-called Doorn group in the metal industry is the best known experiment at sectoral level.

The interim results of these “soft” mechanisms of information and coordination are, however, much less promising than they were expected to be when the initiative was launched. The ambitious project has remained limited to some unions from a relatively small number of countries (Belgium, Germany, Luxembourg, Netherlands) without being able to achieve Europe-wide coverage or to include unions with different “customs and practices”. Furthermore, the strategy has focused on some sectors only (such as metalworking and construction).

The difficulties of these efforts “to take wages (internationally) out of competition” are significant if not insurmountable. At least some national unions (including important German ones) have repeatedly settled for less than the suggested “wage formula” (Keune 2005). Mechanisms to enforce compliance of all participating unions have not been agreed – and would anyhow be difficult to institutionalise. In other words, no effective sanctions exist for cases of non-compliance. International “solidarity” and mutual trust have always been difficult to organise. Transnational coor-

dination of collective bargaining has not improved and/or broadened recently despite ongoing processes of internationalisation and the introduction of Economic and Monetary Union. Last but not least, the complete exclusion of employers and their national associations from this “union only” strategy, that is supposed to create strategic advantages in comparison with all other paths towards “Europeanisation”, has resulted in more disadvantages than originally expected by its proponents. This purely voluntaristic route, or to be more precise the problems of its “logic of membership”, seem to be inappropriate for TCB.

TCB AT CROSS-INDUSTRY LEVEL

The limitations of opportunities for TCB at cross-industry level, the third potential layer, are rather obvious. The European umbrella federations, ETUC and UNICE, could at best act as agents of coordination for the activities of their member organisations but not as independent corporate actors of TCB. Umbrella federations would hardly be mandated by their national counterparts and the heterogeneity of interests would be even greater than at sectoral level. Furthermore, the macro or cross-industry level is of less importance for our purposes than the sectoral one because collective bargaining hardly takes place at national but rather at sectoral or even company level (Ferner/Hyman 1998, Marginson/Sisson 2006). All in all, the likelihood of TCB emerging at this level is even slimmer than at the other levels discussed.

TOWARDS A LEGAL FRAMEWORK FOR TCB – SOME MAJOR CAVEATS: ACTORS

Any legally binding regulation of TCB would, of course, go far beyond existing rules and norms such as pure self-regulation by the social partners. It would complement the existing national systems but face different problems at various levels.

Collective bargaining is like dancing: it always takes two to tango. After the publication of the Ales report UNICE’s reaction was prompt and forthright: it declared (again) its strict opposition to the introduction of any supranational framework of TCB, be it binding or only optional.. It insisted on the completely voluntary nature of all commitments by the social partners and considered Article 139 TEC to constitute a satisfactory institutional basis: “... there is no need for an additional layer on EU collective bargaining over and above the national, sectoral, regional or com-

pany level, and the current Treaty provisions on EU social dialogue provide the right basis for the development of EU social dialogue" (UNICE 2005, 1). Major national umbrella organisations, which are members of UNICE, share this point of view. They emphasise the legal and institutional differences between EU member states' existing collective bargaining systems and stress the principle of "subsidiarity" once again (see BDA 2006 for one prominent example).

These positions are neither new nor surprising. UNICE has always insisted on purely voluntary arrangements because they suit its members' interests best. Its specific interpretation of the principle of subsidiarity "means recognising that industrial relations remain essentially national and that interaction between the EU and national levels is not a hierarchical relationship but one of complementarities and can be of a different nature depending on the issue" (UNICE 2005, 5). In other words, if actors believe in "market forces" and do not expect some kind of improvement from regulatory measures at European level – but quite the opposite – why should they opt for regulation?

ETUC and its affiliates have diametrically opposed interests. They assume that they would benefit from some kind of (more or less binding) European regulation and have accordingly favoured initiatives towards a "regulated space". It comes as no surprise that ETUC as well as national unions have supported the idea of creating an optional framework on TCB from the outset (Schömann 2006).

The Achilles heel of the proposed legal system of TCB is the employers' side. The Ales committee argues: "These agreements would not themselves have a legally binding effect, but acquire such an effect indirectly through their implementation by managerial decisions adopted by all national companies in the relevant sector" (p.41). Therefore, it would be up to managements and their more or less unilateral decisions in all companies of the sector – and not to public authorities at national or supranational level – to establish and implement provisions for binding effect. However, there would be no legal instruments to guarantee or to enforce compliance of dissenting members at national level. Therefore, free-riding would become the preferred option of rational corporate actors. Furthermore, there would be an urgent need to develop viable instruments for follow-up procedures, enforcement mechanisms and/or evaluation.

The difficulties arising here not only have to do with the corporate actors on both sides of industry. The crucial issue of mandating is not only of legal but also of IR relevance – and would have to be solved before TCB could take place. At least so far national organisations have been quite reluctant to transfer various resources – and, thus, some parts of their bargaining power, finance and sovereignty – from the

national to the supranational level, either on a permanent or, more likely, on an ad hoc basis. The establishment of a “joint negotiating body at sectoral level” as proposed by the Ales committee seems to be an overly complicated if not unrealistic procedural arrangement. The problems of mandating by all, and not only by some, national organisations seem to be underestimated in the report.

Last but not least, closely interrelated problems of representativeness would have to be solved. The Commission itself has established certain criteria for the official recognition and the participation of existing organisations in social dialogue activities. They must “relate to specific sectors or categories and be organised at European level”, “consist of organisations which are themselves an integral and recognised part of Member States’ social partner structures and have the capacity to negotiate agreements”, and have “adequate structures to ensure their effective participation in the work of the committees” (Decision 98/500 EC). These indicators are vague and open to various kinds of “soft” interpretation in individual cases of implementation. Nevertheless, they could also be of assistance within processes of TCB.

TOWARDS A LEGAL FRAMEWORK FOR TCB – SOME MAJOR CAVEATS: PROCEDURES

Erga omnes clauses which extend the validity of collective agreements beyond the members of the signatory associations would be necessary because of enormous variations in national density ratios and corresponding coverage rates. Without them coverage rates would be identical to density ratios. Such extension mechanisms exist in the majority of EU member states (with systems of “multi-employer bargaining”) but not at EU level. In empirical terms, the frequency of their application differs to a significant degree between member states. Their existence as well as the political will to make use of their provisions would, however, constitute necessary prerequisites because of major differences in national as well as sectoral coverage rates (Traxler et al. 2001). It would be the political duty of public authorities, first and foremost the Commission, and not the optional task of private associations, to establish and institutionalise such mechanisms at EU level. Otherwise, the validity of agreements concluded would be limited to members of national associations who might decide not to comply with details of supranational regulation.

Furthermore, it is realistic to predict that the potential range of topics would be factually limited to consensual ones (“integrative bargaining”) and would exclude

all controversial issues of “distributional bargaining” (Walton/McKersie 1991). It would only be possible to achieve the necessary consent of employers on a limited number of “qualitative” issues (“positive sum games”) but the core issues of collective bargaining at national level would be excluded.

The Ales report makes no mention whatsoever of all the highly conflictual issues of industrial action, strikes and lock-outs.. In the light of existing empirical evidence at national level it is difficult, if not impossible, to conceive of a TCB system without these means of last resort which constitute a condition *sine qua non*. Therefore, the Ales committee should have specified its solution for this protracted problem of a national and supranational nature within its “optional framework”. Furthermore, various non-binding and/or binding dispute resolution mechanisms (such as conciliation, mediation or arbitration procedures) are also not referred to in the report, although all national systems have developed and implemented such elaborate methods for the peaceful resolution of disputes of interest.

FUTURE PROSPECTS

The so-called eastward EU enlargement of 2004 compounded the former difficulties of reaching political compromises because the already existing institutional diversity within the EU 15 and the heterogeneity of interests increased to a considerable degree (Kohl/Platzter 2004, Schmidt 2006). Surprisingly enough the Ales committee does not even mention these obvious problems concerning almost all social standards and the stagnation of social policy integration.

The Commission’s plan is to “provide additional opportunities for bringing closer social standards and harmonising collective procedures” (p.42). This goal is rather ambitious but highly unrealistic. “Harmonisation” was the dominant regulatory concept of the 1970s and early 1980s. Finally, it had to be abandoned because it proved to be completely unrealistic and impossible to bring about; unanimity could never be achieved in decision-making processes. Its successor in the late 1980s and 1990s was the principle of introducing minimum standards which were supposed to be, but did not have to be, improved at national level; mutual recognition of existing national standards tended to be the preferred option.

Nowadays it is more likely that the Commission would follow the principles of its “open method of coordination”, which has dominated discussion on regulatory instruments in various policy fields since the Lisbon summit in 2000 (Zeitlin et al. 2005). It would, by definition, be of a “soft law” nature and leave all heterogeneous

details of the “basic agreement” and its implementation in a broad sense (including monitoring, enforcement of results, and sanctions) to self-regulation by the social partners. In other words, under the heading of the principle of “subsidiarity” (Article 5) and the prevailing trend towards more “autonomy” for the social partners, there will be no major substantive input by the Commission. Therefore, any expectations concerning the impact of an “optional legal framework” for TCB, if it comes into existence at all, should remain modest.

All in all, the likelihood of a Directive being passed is difficult to predict because of diverging interests and opposing political signals. On the one hand, in contrast to some of its predecessors, the present Commission has been increasingly reluctant to launch new social policy initiatives (“regulatory minimalism”) and, as mentioned before, the social partners disagree fundamentally on the necessity and usefulness of TCB. On the other hand, the Commission explicitly included the establishment of an optional framework for TCB in its Social Agenda 2005 – 2010 (COM (2005) 33 final). Thus, it has decided to limit its potential range of political manoeuvres and to exclude the path of purely informal developments of TCB. Now it might, but is not obliged to, use the proposals and recommendations by the Ales committee as the basis of its future activities to formalise existing “customs and practices” of TCB. So far two expert seminars (in May and November 2006) have been the only activities initiated by the Commission. The formal involvement of the social partners in the decision-making processes would be the useful next step on a long journey...

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WEST-EAST TRADE UNION COOPERATION AND INTEGRATION IN THE NEW EUROPE: BARRIERS, CHALLENGES AND OPPORTUNITIES

Heribert Kohl and Hans-Wolfgang Platzer

I. INTRODUCTION

With the end of the bipolar world order, Europe has changed in historically unprecedented political, economic, and social ways. These epochal changes have a lasting effect on trade unions. They are confronted by new challenges and tasks:

- The manifold effects of globalisation, which manifest themselves in a ruthless competition for production capacity between countries within a borderless Europe, have also constrained western European trade unions' capacity to act within their established systems of industrial relations.
- Securing functioning industrial relations and stabilising trade unions' power in the transformation countries of central and eastern Europe (CEE) are priority goals.
- The establishment of an organisational network encompassing both eastern and western European trade unions and the development of pan-European strategies is on the agenda.

Our analysis is based on two assumptions:

- (1) The enlargement of the EU to 27 member states and the ongoing adjustment processes across Europe have given rise to a dual challenge in trade unions' bilateral relations and their multi-lateral coordination at European level in a context of historically un-precedented complexity and potential conflict. First, a „management of interdependence“ must come to terms with the varied problems which arise out of the logic of the common market and the common currency and which in the light of the enormous disparities in labour and social policy development between East and West makes competition and conflicting solidarities inevitable. Second, a „management of diversity“ must find a balance

between the interests of individual trade unions and the establishment and maintenance of a cross-border European capacity to act.

- (2) The degree of variation across trade unions' organisational structures, traditions, and resources and the degree of convergence or divergence between the material interests of national actors are the decisive parameters in determining the limits and perspectives of current and future cooperation between trade unions in East and West.

A comprehensive comparative analysis should more thoroughly embed these parameters within the respective national political-economic developmental context of trade union action. Within the scope of the present contribution, however, the analysis must concentrate on a comparative empirical sketch of central structural data and the resulting potential for closer cooperation among European trade unions.

It is thus the aim of this contribution to sketch a generally recognisable panorama of the foundations of trade union organisation, strategy and policy in central and eastern Europe within a pan-European comparative framework, and in this way to provide initial answers to several questions which for some time have dominated the trade union and academic debate.

- On the one hand, there is the question of whether and to what extent a possible (further) drifting apart or a new degree of variety among systems of industrial relations in an enlarged EU, compounded by only partially established structures in the acceding EU member states, has already led to a discernible downward spiral in wages, working conditions and social standards across Europe, and/or whether this will be the case in the future.
- On the other hand, there is the question of how this new degree of variety among national trade union systems and industrial relations will affect those specific areas of transnational regulation and control in the EU which — according to both the official EU programmatic logic as well as the aspirations of trade unions — should provide vehicles to shape a „European Social Model“ (Platzer 2005): European Works Councils, multi-sectoral and sectoral „Social Dialogue“, transnational coordination of collective bargaining, and the building of a solid base of social minimum standards by means of EU legislation or social partner agreements to serve as the foundation for a social Europe.

II. COMPARATIVE PERSPECTIVES: INDUSTRIAL RELATIONS AND TRADE UNIONS IN THE ENLARGED EUROPE

For all trade unions and social partners in EU 27, Community law and specific Directives concerning social policy and working life lay down a common set of legal standards. But these ground rules must usually be implemented by national regulation as well within the framework of social dialogue, both of which have specific traditions, procedures and outcomes. The main question here is whether the obvious disparities between the social partners and the practice of social dialogue in each country, and particularly in the new EU member states, will also give rise to the necessary converging trends by building upon a minimum degree of coordination and cooperation. This question can be best examined by a comprehensive comparison of the central features and indicators of capacities of the trade union organisations in eastern as well as in western Europe.

The “*acquis communautaire*” as a binding link

Minimum standards of social rights and the practice of social dialogue among autonomous social partners or tripartite social concertation with national governments are an essential part of the so-called European Social Model. The main arenas here are collective bargaining at company and sectoral level, participation by workplace representatives, and national social concertation (e.g. to fix the minimum wages or to define the provisions of collective labour law). This again depends on the capacity, the power, and the influence of trade union organisations to participate in these procedures and to control or enforce employees' rights in cases of violation or in the absence of normative regulation. These factors are shaped by the central characteristics and the organisational structures of the social partners in each country.

Bipartism less developed in the new member states

With only few exceptions, the tripartite structures are much stronger in CEE countries than are real procedures of bipartite social dialogue. This is the logical result of a lack of sectoral agreements in the private sector in most countries (exceptions are Slovenia and in some respects the Slovak Republic) and thus the predominance of minimum wage regulations in providing orientation for general pay setting. Governments define changes in minimum wages, in most cases following discussions

with the social partners. The trade unions seem to be more active at national level, particularly in cases where union density and workplace representation are weak.

Strong organisational pluralism

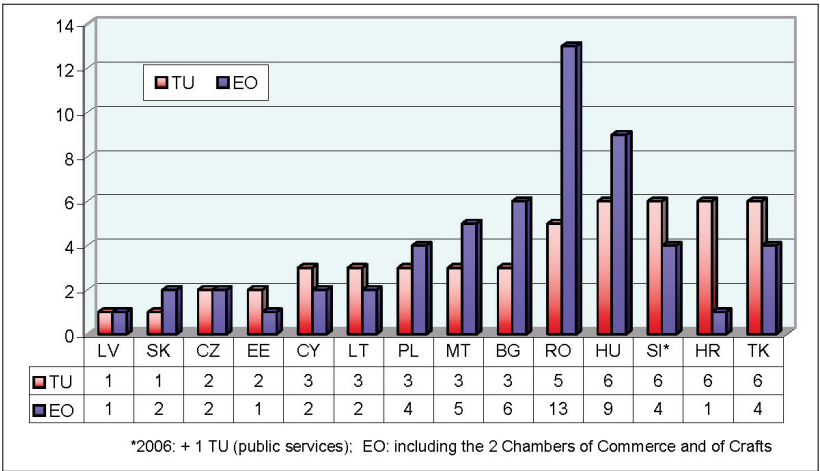
Organisational pluralism was the answer in CEE countries to the new freedom of association during the transition period and the desire to revise social norms in line with changed principles. As a tendency, pluralism seems to be more evident where organisational transformation was lacking or failed to keep pace with new requirements. But this cannot sufficiently explain the current picture of fragmentation seen in CEE (see fig. 1)¹. Other reasons include — as in Western Europe — political cleavages (the case of Poland), or other prevailing organisational patterns (such as the Scandinavian cooperative model of “blue collar” and “white collar” confederations, as found in Estonia). Some argue that pluralism may also support competition in innovation (as is the case in Hungary, where cooperation between confederations works more or less despite stronger pluralism), or that pluralism is mitigated by a few dominant and powerful trade unions which take the lead (as in the Czech Republic or Slovenia).

Nonetheless, pluralism and competition between different employee representations can impede successful collective bargaining at lower (sectoral or enterprise) level, particularly insofar as national legislation sets certain preconditions concerning a common position or a numeral quorum for mutual negotiations with the employers’ side (as is the case in Poland, Czech Republic, and Hungary, to name a few). If such preconditions are not met, then employers may set working conditions and wages unilaterally.

In the 12 new member states of EU 27 today, 32 so-called representative national trade unions are active (s. fig 1), of which 23 affiliated to the ETUC in recent years.

1 For more, see Van Gyes et al. 2006; Hülsmann/Kohl 2006.

Figure 1: Representative national central organisations of trade unions and employers (EO) in the new member states and in Croatia and Turkey (2005)



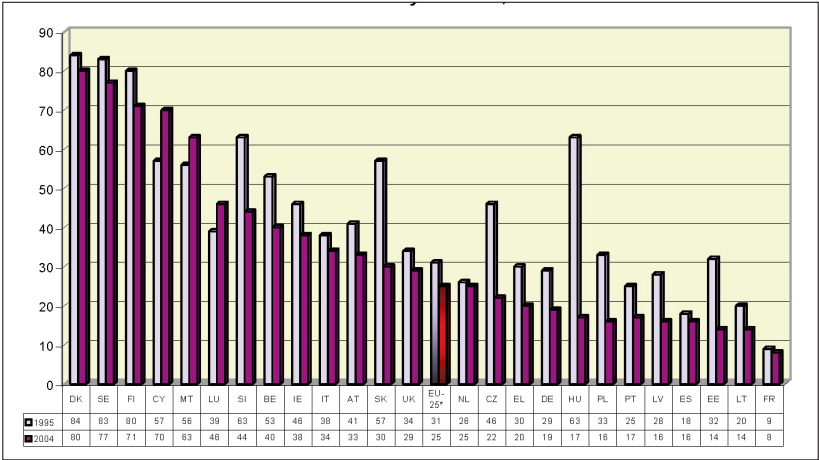
As a rule, the organisational fragmentation of employers’ associations is similar. Not all of them can be considered real social partners who are active in collective bargaining, however, even though they may participate in tripartite economic and social councils as representative organisations. Furthermore, most of these organisations were not founded until the transition period, since the state had previously been the sole or main employer.

Low organisational density

Across Europe, there has been a constant fall in union density over the past few decades, but this process was most dramatic during the transition phase in CEE in the decade after 1990 and is continuing, with few exceptions, until today (see fig. 2)2. It is only in Scandinavian countries that this trend is not or much less evident; density remains at a high level and enables continuously successful outcomes of social dialogue processes. In Slovenia as well, the downward trend could be halted in recent years and effective agreements and workplace representation are well-established. Negative consequences of low union density may be avoided as long as there is a general extension of sectoral agreements for all employers. But this is not at all the case in countries where there are no provisions for agreements beyond the com-

pany level, and where there is no workplace representation in the majority of enterprises which could conclude agreements at the company level (see fig. 3 below).

Figure 2: Net trade union density in EU 25, 1995-2004



* 1995: EU 15; net density = total figures of gainfully employed members (excluding unemployed, students or pensioners) divided by the total population of wage earners in each country
Source: Van Gyes et al. 2006

Fewer sectoral and more company agreements – but lower coverage

The European social model is characterised by the dominance of sectoral collective agreements in most countries (rare exceptions in Western Europe are the UK and Ireland). But in the wake of EU enlargement, this is no longer the characteristic case.

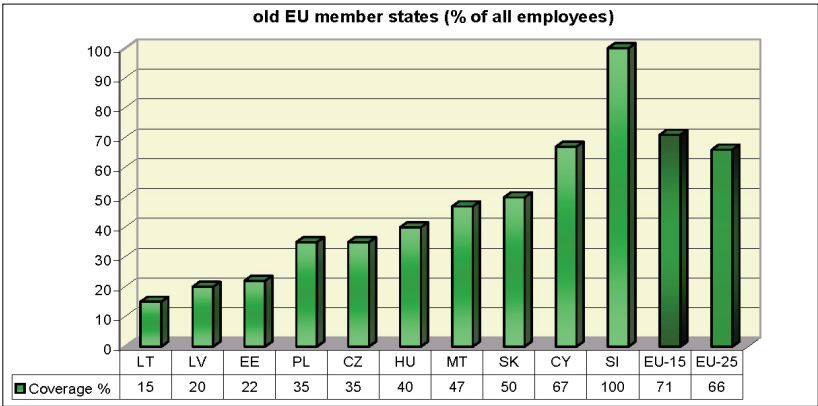
Company agreements prevail in most of the new member states, and sectoral agreements are largely absent in the private sector, though less so in the public sector. The only exceptions here are Slovenia and Slovakia.³ As a consequence, the coverage by collective agreements is rather low in most new member states compared to EU 15 (see fig. 3). But in Bulgaria and even more so in Romania, the last acceding countries, sectoral agreements are also concluded in many private sectors, and they are generally binding in the latter country to all employers of a sector by law. This is also the general case for Slovenia, where all employers are bound to respect col-

3 More details concerning the structures of collective bargaining in CEE can be found in Kohl/Platzter 2004.

lective agreements as members of the chambers which act as the leading negotiating partner vis-à-vis trade unions (this legal commitment was changed in 2006, however, when mandatory membership in the Chamber of Commerce was cancelled by new legislation which might have a negative effect on the coverage rate by agreements in the future).

The general lack of sectoral bargaining coverage in CEE can be compensated by company agreements, provided there is union representation in place to conclude them (see below). Theoretically, coverage could also be increased to a certain degree if the governments were to provide for the general extension of higher level agreements. But such multiemployer agreements more frequently take the form of framework guidelines which regulate only some working conditions, rather than defining specific wage classifications and wage levels.

Figure 3: Coverage by collective agreements in new and old EU member states (% of all employees)



Source: Van Gyes et al. 2006

An overview of the relative importance of the different levels of collective bargaining on wages and working conditions in the 12 new member states is given in Table 1. In Slovenia and Hungary there is currently a significant trend toward more autonomous sectoral bargaining. Sectoral trade unions and their members are increasingly interested in reaching agreements with sectoral employers' organisations – a process which was promoted in the case of Hungary by the establishment of over 30 sectoral bipartite committees as a result of a Phare project completed in 2004. Experiences in negotiation training in CEE countries by means of bargaining simulations show that the main problems arise from the lack of a capacity for data-

based economic argumentation and the difficulties in finding reasonable compromises acceptable to both sides (including the management of conflict when more pressure is brought to bear on the process).

Table 1: Levels of collective bargaining and the importance of each level in the new member states and Turkey

	National	Sectoral	Enterprise
CY	tripartite concertation with long tradition	agreements in 11 sectors	company agreements more important
CZ	no social pacts	some agreements at "higher level" (for ca. 24 % of employees)*	company agreements more important (for 29 % of employees)
EE	no bipartite negotiations or social pacts	state sector only and healthcare sector (generally extended)	company agreements remain dominant
HU	tripartite recommendations for negotiations at lower levels	bipartite committees in about 30 sectors; several agreements exist	company agreements for a higher share of employees
LT	no social pacts, no bipartite negotiations	in public sector only	company agreements are dominant
LV	tripartite concertation no negotiation	in public sector only**	company agreements are dominant
MT	regulation of labour conditions by law	no sectoral agreements	only company agreements
PL	tripartite concertation only with recommendations for bargaining	10 tripartite sectoral committees to prepare agreements	company agreements as a rule if TU representation exists
SI	social pacts with framework regulation	sectoral agreements in all 34 sectors	many company agreements
SK	no social pacts	agreements in most sectors	many company agreements
BG	no social pact since 2002	agreements in about 70 sectors	many company agreements
RO***	no negotiations	many sectoral agreements	company agreements important
TK	no negotiations	no provision by labour law	only company agreements

* several with general extension for all employers by new law of 2005.

** missing collective bargaining in private sectors with low TU density (such as construction, trade, agriculture, banking).

*** collective agreements at any level are generally binding all employers of a sector or extended to all employees in a company by law.

Source: Hülsmann/Kohl 2006

Due to this rather patchy coverage, the national minimum wage often serves as orientation for pay setting in many sectors and for many or most employees – but without binding agreements, the employer always remains free to set the final amount.⁴ As a matter of fact, minimum wages in CEE vary between 33% and 45% of the respective national average incomes – thus indicating relative poverty – whereas in EU 15 this share is usually higher (on average 50% of national average incomes). In

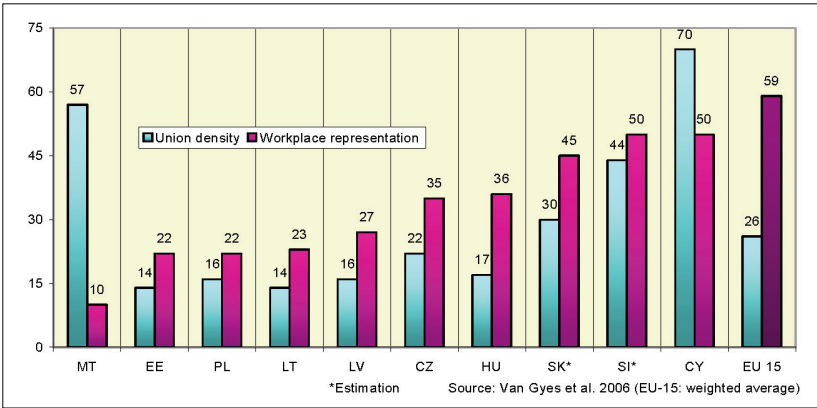
4 For more on minimum wages in CEE see: Kohl/Platzer 2006; another question is the practice of "cash in hand" and undeclared wages in certain CEE countries, see: EC 2005:158.

2007, minimum wages in CEE countries were significantly raised in an effort to combat the threat of poverty – particularly in some Baltic states (LV + 31.8%, EE + 19.8% – see EIRO for more detail).

Greater union presence at traditional workplaces

The lack of sectoral bargaining in the new member states can partly be compensated where there is workplace representation in place to negotiate directly with the employer at the company level. Strictly speaking, this would be the task of a trade union representation, insofar as one exists. Transition and privatisation have meant that big combines have been replaced by the numerous small and medium-sized enterprises (SMEs) which now dominate the economy; these smaller companies rarely have any union or other workplace representation in place at all (see fig. 4). Employee representations have as a rule been retained in the remaining state-owned or in privatised bigger enterprises; however, the great majority of companies today are SMEs with a particularly high share in smaller countries.

Figure 4: Workplace representation by works councils or trade unions and union density in CEE (+ Malta and Cyprus) and EU 15 (% of all employees)



Works councils were already established in Hungary and Slovenia in the early nineties and in Croatia since 1996. In order to implement the EU Directive 2002 on information and consultation of employees, statutory workplace representation was formally introduced later in the Czech and Slovak Republics (2001 and 2003), and more recently in Lithuania (2005). But thus far, it doesn't exist in Poland and Estonia and

can only be found in some exceptional cases in Latvia.⁵ In Lithuania and in Latvia, works councils are also legally empowered to negotiate collective agreements and even to organise strikes – but there has evidently been no real and effective application to date.

The role of workplace representation seems to be decisive not only as platform for collective agreements but also with respect to another aspect: the recruitment of new members of trade unions. Workers obviously need a visible interest representation and direct contacts to the representatives of an organisation. In 2005, a representative poll among members of the German metalworkers' union IG Metall identified two essential aspects which shape workers' motivation to join a union and to maintain membership: a positive image of the workers' organisation plus the experience of face-to-face contacts to a workplace representative (in Germany works councils as the most common body of workers' representation are usually dominated by union representatives). Both are decisive motives to join the union and to pay the respective membership dues over a longer period (Pyhel 2006). These empirical findings underscore the importance of legally-based shopfloor unionism and workplace representation, particularly in those countries where company agreements are the rule.

In the new EU member states, three different forms of workplace representation exist: single channel (= union only), double channel (union plus works council) and the so called "Czech model" of alternative representation: in this model, a works council may only be set up as long as a union representation has not yet been established (see fig. 5). In Malta, Cyprus, Bulgaria, Romania and Turkey there are thus far no legal provisions to establish works councils with statutory rights.

5 In CZ, LT and PL the so-called "Czech model" allows only the general election of a works council as far as no local trade union organisation in a company exists. The requirements of the EU Directive led to new laws in Poland (2006) to be implemented at the latest by 2008 and 2007 in Estonia – see figure 5. In Bulgaria and Romania no works councils exist so far, but there are currently discussions about their establishment in the near future.

Figure 5: Workplace representation via three different participation systems

1. Sole trade union representation (single channel)	2. Either union representatives or works council (as alternative)	3. Dual Representation: Trade unions plus works councils
<ul style="list-style-type: none"> • Estonia (usual practice) • Latvia (usual until now) • Lithuania (usual until now) • Poland (monopoly position by labour law)* • Cyprus and Malta (see 3.) • Bulgaria and Romania 	<ul style="list-style-type: none"> • Czech Republic (from 2001) • Slovakia (2002 to 2003) • Lithuania (from 2003, implemented by special law 2005) • Poland (new law 2006, to be implemented until 2008 – works council if >50 employees)* 	<ul style="list-style-type: none"> • Hungary (since 1992) • Slovenia (since 1993) • Croatia (since 1996) • Slovakia (from 2003)** • Latvia (law of 2002)** • Malta (in one big company) • Estonia 2007***

* except state owned companies (with elected works councils)

** implemented in a few companies only.

*** The Employees' Representative Act came into force on February 2007 in enterprises with at least 30 employees after long and controversial discussions since 2003 (EIROnline 2007/01).

The participation in European Works Councils is steadily increasing in CEE, but more so where there are large workforces and hardly at all in companies headquartered in these countries (Kerckhofs 2006, see more details below in Section III).

Results: wage moderation and longer working hours

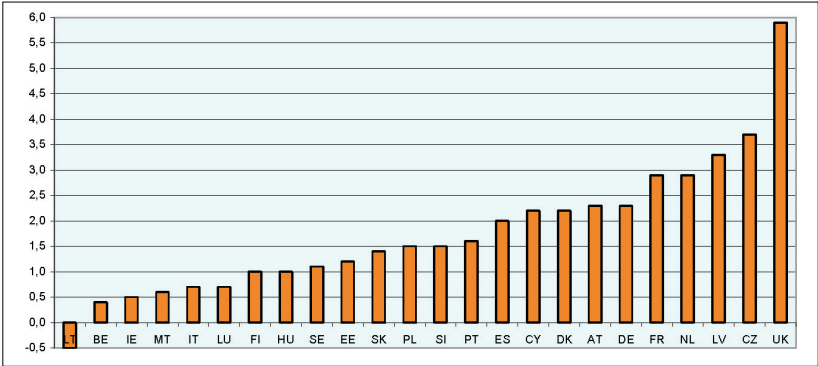
Obviously, the different industrial relations structures and social dialogue procedures in CEE also result in significantly different outcomes concerning wages and working time.

The first aspect of different pay setting processes shows two tendencies:

- On the one hand, the new member states profit from higher nominal rates of income increases due to higher rates of economic growth and productivity than in EU 15.
- On the other hand, these nominally higher income raises are not necessarily the result of stronger collective bargaining or industrial conflicts: the wage drift (i.e. the difference between agreed and effective pay increases) is relatively higher in CEE member countries than it is in EU 15 (Van Gyes et al. 2006, table 7). In many western European countries (Austria, France, Germany, Spain), there is even a clear negative wage drift (real increase is lower than that agreed). The same is true of the respective trends of wage moderation (the difference between annual growth rates of wages and the cost neutral volume of productivity plus inflation rates). This wage moderation is three times higher when comparing new and old members (between 2000-04: -3.1% in EU 10; -1.1% in EU 15). That means that collective negotiations could be executed much more ac-

tively and powerfully, which may explain the high wage drift margins granted voluntarily to individual workers by employers in CEE (see also Schulten 2006). The second aspect is the working time drift, defined as the gap between statutory or agreed weekly working hours (weighted average in EU 25 in the years 2000-2004: 37.9 hours) and the effective hours worked (weighted average in the same 4-year period: 40.5 hours). These differences (see fig. 6) create comparative advantages for employers in certain countries. Effectively, average hours worked per week show a difference of nearly 5 hours across the EU (between Italy and France at the one extreme, and Latvia or the UK at the other).

Figure 6: Difference between agreed and effective weekly working hours in EU 25 (2000-04)*



* in CEE the statutory 40-hours-week is basic norm.

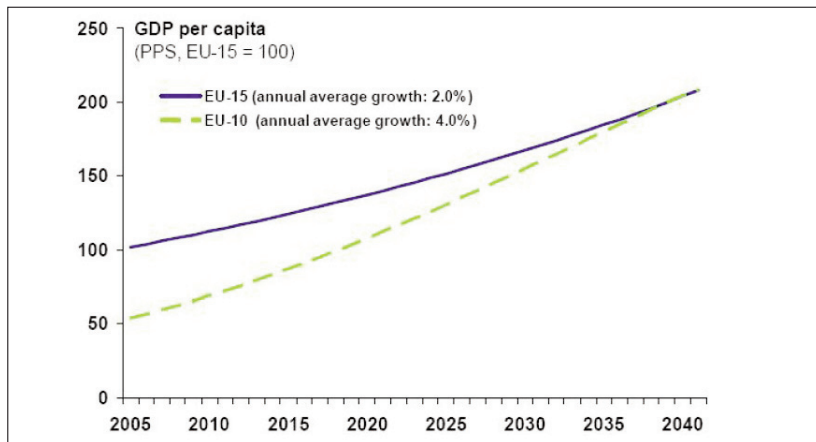
Source: van Gyes et al. 2006 (based on EIRO)

In addition to paid leave, the effective working hours per year yield a much more striking difference (259 hours between the extreme poles: 1,712 hours on average in the Netherlands and 1,971 hours in Latvia). The absence of sectoral agreements about working time schedules and the lack of control by unions fails to secure equal conditions in this field, too.

Convergence in a far distant future

How many years will CEE countries need to match the average income level of the old member states, the EU 15? A projection of the European Commission illustrates the long way ahead (fig. 7).

Figure 7: Economic convergence only by higher growth and active distribution



Source: EC 2006 (EU-10 = acceding countries 2004; PPS = Purchasing Power Standards)

The prognosis of European Commission is that with a steady higher economic growth in the new member states (+4%), a harmonisation of incomes can be achieved within several decades. Some countries – such as Slovenia – will reach this target earlier, others much later, depending not least also on active collective bargaining and strategies aimed at distributing the fruits of economic growth.

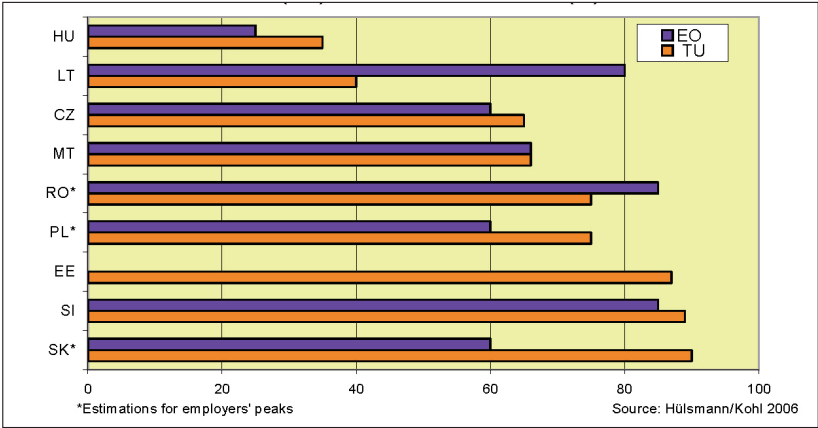
Less resources for mobilising members and international cooperation

The capacities of trade union organisations are largely determined by their financial and personnel resources. In CEE countries, the corresponding structures differ also in this respect from the old EU countries.

What clearly can be stated is that compared to Western European trade unions, the financial resources of most central headquarters is rather poor. This constrains their ability to launch new and necessary activities, such as hiring staffs of experts or establishing regional structures. Financial resources are mainly generated by membership fees, but there may also be income from other assets such as real estate carried over from the socialist era. Employers' associations, besides collecting membership fees, also generate additional income from the provision of special services or commercial activities (see fig. 8).

Other financial resources are provided by state subsidies (e.g. for educational projects), or international support through European projects (such as Phare programmes) and from European social partner organisations. In Slovenia and Cyprus, funding for training and education is provided by the state. Polish social partners receive a government grant if they are involved in tripartite commissions. In Slovakia, trade unions receive funds for projects aiming at regional development, and in the Czech Republic, state allowances cover the costs of monitoring occupational health and safety.

Figure 8: Share of membership fees of the whole budget of trade unions (TU) and employers (EO) in new member states (%)



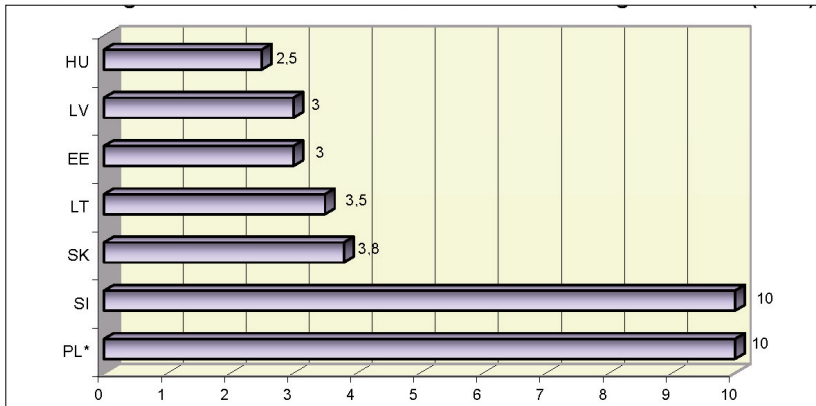
Source: Hülsmann/Kohl 2006.

As a rule, trade unions collect 1% of gross monthly wages as membership fees in most countries. But these dues are still mostly collected in the traditional way via the respective employer, although in recent years there has been a growing trend to pay by direct bank debit.

The central trade union organisations receive only a small part of their members' dues. Most financial resources remain with the local company union (some 60-80%), another bigger part is transferred to the sectoral organisations (20-30%). The result of this bottomup financing is shown in fig. 9.

Whereas in Western Europe a higher proportion of revenues is transferred to the central organisations – e.g. in Germany 12% of membership fees go towards financing central and regional staff and resources – this share is rather modest and insufficient in most CEE countries.

Figure 9: Percentage of member fees reserved for central TU organisations (2004)



* TU Solidarnosc only (high centralised structure, no affiliates); no data of other peaks.

Source: Hülsmann/Kohl 2006.

One obvious result of this structure is the lack of professional and competent experts. Lawyers and economists in particular are lacking in nearly all countries, as are specialists for training, collective bargaining, sectoral social dialogue, social policy, media or for important development projects. Clearly, this situation has an impact on CEE trade unions' opportunities for international cooperation, too (Hülsmann/Kohl 2006). Hungarian trade unions have tried to mitigate this problem by hiring part-time contractors from outside. All this is not least a question of available finances and resources.

A further effect of the existing trade union structures in CEE is their limited capacity to contact the membership at large and to mobilise for industrial action, not least at the sectoral level. For the latter, strike experience as well as financial resources are generally lacking or are insufficient – regardless of the fact that strike law in some CEE countries is much more restrictive than is generally the case in western Europe (see: ICFTU 2006).

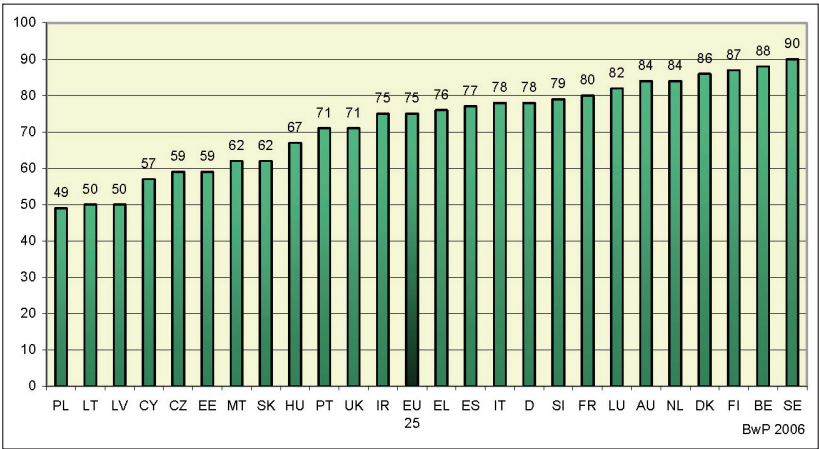
Level of labour standards

Viewing the potentials to enforce labour rights and to influence and control existing norms, it must be stated that the implementation of the social *acquis* shows a wide range. The EU *acquis communautaire* has been adopted in its essential elements by legislation in all member states. But it is most interesting to examine the extent to which these principles have been implemented by national regulation

and social dialogue in each country. Particularly important in this respect are the capacities to enforce employees' individual and collective rights by workplace representatives, mediation and arbitration bodies, labour inspection, and not least by special labour courts empowered to judge grievances or violation of rights within an adequate timeframe (Weiss 2004; Welz/Kauppinen 2004).

A labour rights standard index (LRS, composed by 15 subindicators of individual and collective rights and their effective implementation and control) has been developed for this purpose as part of a project conducted for the European Foundation (see Kohl/Lehndorff/Schief 2006). The most notable feature exhibited by this index of core labour standards is that, with the exception of Slovenia, all of the new member states rank below the EU average. Ranking in the (former) EU 15 goes from north to south with Belgium, the Netherlands, Luxembourg and Austria joining the Nordic countries at the top of the scale. Comparatively within these EU 15, low scores were assigned to the UK, Ireland and Portugal. As for the CEE countries, Poland, Latvia and Lithuania scored particularly low on this index (see fig. 10).

Figure 10: Labour rights standards in EU 25



Based on this short analysis of structures and capacities, we can identify with only few exceptions a specific transition-based type of industrial relations in CEE countries which differs from other European models (Kohl/Platzer 2004:358 ff., see also Bluhm 2006).⁶

6 Some authors, like Schief 2006, identify the general trends of industrial relations in CEE more with the Anglo-Saxon model.

In some countries, as in Slovenia and with some evident trends in Hungary and Slovakia, there is an approximation towards the continental model of industrial relations. However, the current trend towards industrial relocations from west to east illustrates the great attractiveness that this transitional model of industrial relations and its lower standards hold for foreign investors.

The central question today is whether the obvious deficits of social dialogue and industrial relations – workplace representation, regulation of working conditions by sectoral agreements, implementation of agreed standards – and the weak organisational capacities of CEE trade unions can be overcome in order to prevent a “race to the bottom” and to come to a needed convergence of standards at higher levels. This will not least depend on the question of how far cooperation and integration of trade unions in the enlarging Europe may be possible and more effective in the future.

III. TRANSNATIONAL PERSPECTIVES: BARRIERS TO AND POTENTIALS FOR EAST-WEST COOPERATION BETWEEN TRADE UNIONS

If one looks at the trade unions’ European organisational level – i.e., the umbrella organisation ETUC and the 12 sectoral European trade union federations (European Industry Federations EIFs), then one can see that the European groupings have successfully accompanied the reorganisation processes in Europe insofar as the transformed or newly established trade unions in the CEE accession countries as well as some further organisations from the circle of potential candidate countries (such as Croatia) have gradually been integrated into transnational European structures (besides other confederations from the western Balkan countries which have observer status).

In the case of Turkey, the question of integrating trade union organisations into European structures remains open, not least because Turkey’s current legal system yields no experience with sectoral collective agreements and because there is as yet no system of workplace employee representation. Relevant changes to the legal system are currently under discussion, however.

With the integration of new members (from roughly two dozen national federations from central and eastern Europe into the ETUC with its current 81 affiliate organisations) the transnational trade union organisations have a representative struc-

ture which matches the „new Europe“. This *formal* integration stands in contrast to the ongoing and difficult task of *substantially* integrating new members, however.

At the fundamental political level, which tends to be neglected in the relevant debate, a potential contradiction emerges, which has marked the European debates within the trade unions (as well as within the democratic left in the whole EU) for some time, and which is exacerbated by the enlargement of the EU. This is manifested in the fact that in the context of the debate about deepening vs. widening the EU, there has traditionally been an „integrationist“ camp and a „sovereignty“ camp. The first is above all rooted in the mainland EU member states, while the latter is based in the Anglo-Saxon and Scandinavian member states. The enlargement of the EU has bolstered the „sovereignty“ camp and has thus tended to hamper the search for common goals and joint strategies for the development of a European social model – whose further development is compellingly linked to deeper political integration.

A „map of interests“ (Busemeyer et al. 2006) drawn up in the light of the controversies surrounding the European social model illustrates that the business community across the EU shares comparatively coherent strategic positions, since it is apparently easier for economic interest groups to agree positions favouring „negative“ integration (e.g., market liberalisation and competition between member states) than it is for trade unions to agree joint positions in the controversies surrounding „positive“ integration (e.g., strengthening supranational regulation and control, and economic regulation in the EU). In the light of the historical experiences of the trade unions in central and eastern Europe, it will most likely require a longer learning process and intensive communication within the European trade union organisations before the understanding prevails that deeper integration and a strengthened supranational level only superficially imply a loss of national sovereignty, whereas it will on the contrary in effect enhance trade unions' transnational influence in a globalised economy.

Even below this substantial level of the debate about the political architecture and „finality“ of the EU, diverging interests will be revealed in the long run by EU regulation of concrete material issues as a result of the enormous socioeconomic developmental disparities and – as the services Directive showed – it is only with great difficulty that a common European trade union position can be found.

The economic convergence processes in the enlarged EU described above (fig. 7) indicate the corresponding time horizons. Furthermore, these convergence prognoses broken down by CEE countries reflect the overall gap we have identified in the industrial relations systems along a north-south axis, and show that given com-

parable economic growth conditions, there will be a time lag of roughly two decades even between Slovenia and the Baltic countries as they catch up economically (EC 2003: 120).

Looking at current and future labour market policy and social policy regulation in the EU context from the perspective of convergence and divergence, the following dimensions deserve particular attention:

- The implementation of the EU *acquis communautaire* in the CEE reform countries already currently provides a common basis of social policy and labour law standards, towards which further candidate countries are also gradually orienting their policies. Of course, even a faithful „word for word“ adoption of the EU status quo in the areas of individual and collective labour law cannot solve those problems which arise in the majority of CEE countries as a result of the fact that individual and collective labour law have in many cases not yet coalesced into a functioning, integral system. Moreover, a formal legal adoption of the social *acquis* does not guarantee its real application or its practical effectiveness – especially if there is little administrative control, or in the case of labour conflict, neither legal enforcement nor the presence of actors within the industrial relations system who are capable of mediating in a conflict.
- In the foreseeable future it is unlikely that there will be any significant expansion of „hard“ EU regulation in the area of social policy (harmonisation of matters related to production and locations). Instead, flexible and „soft“ forms of regulation, including the so-called Open Method of Coordination, will continue to become more and more important.
- The establishment of further European Works Councils and their extension to central and eastern Europe as well as the further development of codetermination within the European Company will also continue to be largely based on negotiations underpinned by law.
- For lack of political or legal supporting measures at the European level, the trade unions will have to continue to „autonomously“ develop their approach to transnational collective bargaining coordination.

What all these steering measures have in common is that their success depends on the existence of actors within companies and trade union organisations who are capable of both acting and negotiating at the national level as well as being able and willing to coordinate their activities across borders.

Building upon the comparative analysis of structures and institutions, we can identify the following perspectives regarding key fields of activity:

European Works Councils

Relatively speaking, the greatest potential for a geographical and political extension of East-West industrial relations lies within European Works Councils.

With enlargement, the new EU member states also adopted the institution of European Works Councils. The number of companies which could establish an EWC increased through EU enlargement by 300 to a total of 2,204 companies (Kerckhofs 2006). Of the total of 37 companies which could set up an EWC and which are headquartered in CEE countries, 12 are based in Hungary, 10 are based in Poland and 7 are based in the Czech Republic. A first EWC in a CEE-based company was set up in Autumn 2004 in a Hungarian gas and refinery company. 69% of all multinational companies which already have an EWC have one or more sites in the new member states; of these, over 700 are located in Poland, and roughly 600 sites are located in Hungary and the Czech Republic each.

In quantitative terms, the number of EWCs with participation from CEE will continue to grow. In qualitative terms, the need to coordinate across different workplace and trade union representation structures will at the same time place high demands on the work of the EWC if it is to be effective.

Even if western European EWC practice demonstrates that it is in principle possible to mediate across different national systems of employee interest representation, the fact that in many cases there are insufficiently developed representation structures at the local level in CEE countries means that these gaps could remain weak points in the EWCs' enlargement and development processes. At the same time, the inclusion of CEE sites into EWCs offers the potential to strengthen local structures in CEE countries more generally, insofar as exchanges of experience and learning processes among EWC members can also contribute to stabilising national representation strategies and practice on a case by case basis. Nevertheless, as first case studies about western European companies' management strategies in their CEE subsidiaries (Kluge/Voss 2003) or recent pilot studies about the practice in EWCs which have enlarged eastwards (Voss/Wilke 2006, Kotthoff 2005) have shown, one cannot expect tried and tested western European participation cultures to be transferred automatically.

It is only in the course of a longterm process, which must be accompanied by coordination and training activities on the part of western European trade unions and/or their European union federations, that relevant experiences and impulses can be shared via EWC activities which could in turn have constructive effects on the situation at the national level in CEE countries.

Collective bargaining coordination and sectoral social dialogue at EU level

The greatest structural disparities and hence problematic barriers to a future transnational policy will emerge in the context of cross-border sectoral collective bargaining coordination and effective cooperation in the framework of the sectoral social dialogue at EU level (see Transfer 3/2005; special issue „Sectoral social dialogue“). As shown above, autonomous collective bargaining processes beyond the company level have yet to gain much of a foothold in the majority of CEE countries. Although the sectoral union organisations in principle provide relevant „contacts“ in all countries, their real capacity to act in the context of wages and collective bargaining policy is, as a rule, quite limited; for the time being, they only have limited capacity to communicate and oversee transnationally agreed collective bargaining policy.

Under these conditions, Marginson and Traxler (2005: 423) conclude that „EU enlargement ... calls for a reconsideration of the preconditions and prospects for transnational coordination of collective bargaining, [...] that differentiated approaches are required as between sectors; that unions need to develop effective means of coordination across companies within sectors; and that, under single-employer bargaining regimes, boosting union organisation and hence the coverage of collective bargaining is paramount.“

Setting up networked organisational and consulting structures

Institutionally, the model of a cross-border network set up with the “Vienna Memorandum” in 1999 by trade unions in the metalworking sector (Germany and Austria together with four countries from central and southeastern Europe) points in a direction which other geographical regions (such as the Baltic countries together with their Scandinavian neighbours) and other sectors could adopt and intensify.

This cross-border network of metalworkers’ trade unions serves to provide a platform for a permanent exchange of experience, training activities about successful negotiations, preventing strike-breaking activities, and curbing exploitative secondments – in short, those problems which crop up between neighbouring countries and regions. This approach of setting up geographically flexible multilateral coordination and networking could provide the basis for a transnational trade union integration „from below“.

At the same time, in the medium term, efforts to integrate trade union activities across borders, „from above“ will have to be intensified, including the systematic inclusion of qualified trade union elites from the eastern countries into the various consultative structures of the trade unions' European organisational level. One prerequisite for this is the continuation and intensification of both material and im-material support for eastern unions by western unions; to this end, it is the European trade union organisations which are best placed to identify specific needs and coordinate appropriate measures.

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BRIDGING GAPS – STRENGTHENING SOCIAL EUROPE

Reiner Hofmann und Otto Jacobi

PHOENIX

“An irenic, pacific continent had risen, Phoenix-like, from the ashes of its murderous -suicidal- past” (Judt 2005: 5). That is the conclusion of the British-American historian Tony Judt in his book on post-war European development.

The story of Europe’s unexpected recovery after 1945 is a miracle. The steady extension of institutionalised forms of intra-European cooperation has resulted in a post-national Europe that has learned the bitter lessons of its imperialistic, fascist, and communist aberrations culminating in two world wars and authoritarian or dictatorial suppression. Judt regards the European Social Model as a fundamental landmark of the EU that marks a principal distinction between Europe and the rest of the world. The commitment “to shield citizens from the hazards of misfortune or the market” (Judt 2005: 793) and the combination of a highly efficient capitalism with social security and political freedom form a unique transnational European entity that offers the world a “serviceable model” (Judt 2005: 800) for the future. Europe, thus our conclusion, is the most important political, economic, social, and cultural innovation of the 20th century.

Similar esteem for Europe and the EU as its political arm can be found frequently. It is interesting that they are indirectly confirmed by the rejection of European integration by a colourful mix of nationalist, xenophobic and neo-liberal streams. A telling example is provided by a national-liberal broadside by British economists urging the UK to secede from the EU to escape over-regulation and social protectionism (Minford et al. 2005). The EU – according to these authors – is being steered in the wrong direction, and the constitutional treaty enshrining fundamental social rights, social cohesion and participation rights would only cement these undesirable trends.

Acceptance of the European project by the intellectual left and rejection by the political right would be a good foundation for European trade unions, were there

not scepticism and mistrust in their own ranks. Among workers, a transnational Europe gives rise to fears of job losses and social erosion, which not seldom leads to a return to the seemingly safe harbour of the nation state. It is as influential that in some member states parts of the trade union and political left have made a bogeyman out of the EU. They see it as a neo-liberal project of the European economic elite and have in France, for example, successfully called for a rejection of the draft constitutional treaty. The current circumstances, then, that some perceive the EU as socially overweening, while others see it as neo-liberal and socially aggressive demonstrate the need to clarify what Europe actually is.

THE FOX

In antiquity there was already the proverb: “The fox knows many things but the hedgehog knows one big thing”. Today’s fox knows three things about Europe, and the hedgehog has one big idea.

(a) Europe is also an outcome of the labour movement

If we go far back with the historians, following above all the great French masters, then Europe is not a geographical notion, but rather a cultural concept which has secular roots in Greek and Roman antiquity and spiritual-religious roots in Judaism and Christianity. The modern Europe did not emerge until the Enlightenment, however; it released science, culture and the arts, introduced democratic rights and parliamentarianism, completed the separation of Church and State, and with the freedom to pursue economic activities, invented capitalism.

But European capitalism also brought to the fore a social counter-movement. In a long and dogged fight, the labour movement wrested social rights from it. Tamed capitalism and the social state thus also became European inventions. The European Social Model, which takes different shapes from country to country, is the contribution of the labour movement to today’s Europe. The EU is precisely this: a mixture of liberal-capitalist, conservative-Christian, and social-progressive forces. In this sense, the EU differs not by one iota from the European nation states. Great Britain is not simply liberal, France not simply statist, Italian not simply catholic and the Nordic states are not simply social; no single member state is socialist or somehow better. The EU can be better than its parts, if it can bring together the most pro-

gressive possible cross-section of cultural-civil society and socio-ecological responsibilities.

(b) Cyclical Progress

Every trade unionist knows the cycles that are inherent to capitalist free-market regimes. They are the economic upward and downward trends and the long waves of epochal inventions which lead to the fall of old and the rise of new industries. As can currently be seen in the neo-liberal mainstream, such changes are always linked to a shift in the dominant ideology. In the triangle of market, state and civil society, varying combinations are the rule. Lasting changes to the economic and social fabric of capitalist free markets always go hand in hand with the disintegration of traditional structures and orders. Deregulation is what it is called today. A few examples shall suffice to demonstrate how radical such changes are, and how quickly we forget them. In the 1960s, the coal and steel industries were giants, and the financial industry was a dwarf; the textiles and clothing industry was a behemoth and the tourism industry a gnome. Other industries such as motor vehicle manufacturing, the machine tools industry or the chemical industry were booming. The classical labour force was the centre of society, the trade unions were influential and, together with the state and capital, were involved in steering economic and social development. The Golden Age of western European post-war capitalism came to an end with the downswing since the middle of the 1980s, and was replaced with market radicalism with an Anglo-Saxon touch. Since then, social inequality has increased and a disregard for the knowledge, motivation and interests of workers has grown. This is the opposite of the „intelligent capitalism“ with which John Monks (2006) General Secretary of the ETUC contrasts radical capitalism. The trade unions have drawn a double conclusion from the vicissitudes of capitalist societies. On the one hand, there is the need to protect the losers of upheaval, on the other hand, there is the need to translate technical-scientific progress into social progress. This is a recurring task for trade unions. The EU is also marked by cyclicity. National deregulation is indivisibly linked to European economic and monetary union, and it is imperative that transnational re-regulation is achieved which meets the requirements of economic, social and ecological sustainability. This is of course not an automatic process; rather, it requires trade unions which seek to shape Europe.

(c) Long-Term Trends

As is already true for nation-state capitalism, we can discern two fundamental directions of movement in the EU: the one moves outwards, the other inwards. One can also call these the internal and external conquests.

External conquest refers to the spatial extension of the EU to ever more countries through the intake of new members or the economic linkages with further states. Where previously the nation-state expanded by military-imperialistic means, the EU today extends its transnational empire thanks to its political and economic appeal. This process has by no means reached its end and the trade unions are well advised to gear up for further rounds of expansion and integration strategies in good time.

The internal conquest refers to the inclusion of ever more areas of life into the market for goods and services. Sport and culture have become big industries; education and social services are being commercialised. Within the EU, the keyword is liberalisation, and its typical feature is its transnational character. Trade unions are thus faced with the task of transforming the commercialisation and de-nationalisation of such areas of life into a transnational system of social and cultural security.

THE HEDGEHOG

The ancient hedgehog was familiar with the old adage that war is too serious a matter to leave to the military. Today's hedgehog knows that achieving a socially, ecologically and economically sustainable Europe is a „mission impossible“ for money and capital. His big idea is that anchoring the European Social Model is neither a troublesome duty nor an impossible challenge, but is instead an incentive and fountain of youth for the revitalisation of trade unionism as a pan-European, transnational movement for social cohesion, economic responsibility and new technological trajectories. Our hedgehog has learned that a revival of the European nation-state to its old strength is useless and not desirable, because old rivalries and times of horror could return.

For trade unions, a unique historical opportunity is opening up to become a key actor in pushing forward a long wave of social, economic and ecological upswing. Demographic change, climate change, and technological change create two scenarios: one of threat and one of hope for the future. The defence of threatened liv-

ing and working conditions is part of trade unions' aspiration to protect; seeking to proactively shape change is part of trade unions' aim to safeguard the future. To better establish Europe: clean technologies and environmental industries which are fair to the aged, conserve resources, or are knowledge-oriented are already available today and will be in the future, thus giving rise to new markets which create employment. The trade unions, and with them the workers, need have no fear that work will run out or that economic growth will come to an end.

As right as it is that individual nation-states can blaze the trail towards a modern, socially sustainable society, it is equally certain that only the EU as a transnational alliance will have the necessary critical mass to lend it global resonance and radiance. But progress depends on this fact, because the interdependence between economics, social issues, the climate and technology has become so dense that there are ever fewer intact national islands. The need to act as Europe – i.e., beyond the nation state – cannot be denied, and can become a new source of strength for trade unions whose scope for national action is continuously shrinking in the course of the Europeanisation of the economic area and labour markets.

Our hedgehog knows, then, that the Earth will not tumble over the brink, but that the future can be shaped; that efforts by individual states may be welcome, but that cross-border collective action is essential; and that trade unions are virtually predestined to play a central role at the heart of Europe. The trade unions act at the interface between working worlds and day-to-day lives, they are organisations of the masses with a pan-European organisational structure, and they can call upon a wealth of knowledge gained from historical experience. Who else has such excellent credentials? As IG Metall Chairman Jürgen Peters (2005) puts it, „globalisation and Europeanisation have fundamentally changed the conditions for trade union policy“, and that it now depends on whether the „Europeanisation backlog“ can be reduced in order to develop a „guiding vision for Europe“ and to become a „pro-European force“.

The European project is unfinished. Considering the lack of a perspective to be gained from a widespread – even among workers – turning back to a national identity, which is not seldom mixed with anti-foreign and anti-EU slogans, Europe offers trade unions scope for revitalisation. Mitigating insecure and sceptical workers' worries about the future, fighting social exclusion, and opening up new living and working opportunities could lead to a renaissance of trade union strength. The integration of Europe is the „escape route out of its past and an insurance policy for the future“, says Tony Judt (2005: 734) — a quintessential truth that is also valid for trade unions if they seize Europe as their own project.

EUROPEAN BRIDGES

Europe has at its disposal a wealth of common cultural and social values, yet it must at the same time address its problems and challenges against a backdrop of a wide variety of different traditions and structures. There is a need to forge links and networks by means of adjustment, cooperation and coordination. This is true for trade unions as well, which, in order to represent social interests in Europe, must build bridges and streets to manage diversity. These are (a) bridges between the top and bottom of the social ladder; (b) crossing points between traditional and avant-garde milieus; (c) boulevards towards growth and employment; (d) bulwarks against overweening state and market forces; (e) avenues between the national and the European levels; and (f) bridges over seas.

(a) Basic standards against class division

The societal split between top and bottom is by no means overcome. On the contrary, we can even identify new class distinctions. The most obvious change since the golden era of post-war capitalism is the increase in the numbers of socially disadvantaged and discriminated workers which followed in the wake of the neo-liberal hegemony. They are pushed aside into the low wage sector, into unemployment, and into the informal labour market. Social exclusion and poverty are the insignia of the new underclass. These developments can be traced back to the liberalisation of labour markets in the context of Europeanisation and globalisation. Across Europe and around the world, there is an oversupply of labour which contributes to a shift in comparative advantage in favour of emerging markets.

The trade union bridge towards fighting social exclusion is the European Social Model (ESM). It is no protectionist system in the sense that national labour markets are to be cut off from inner-European migration. As can be seen from the example of Germany, formal barriers to the labour market lead to a flourishing informal labour market. No one is protected in this way, neither domestic workers nor immigrant workers. The European Social Model – and the ETUC supports this – advocates open labour markets in the EU, but seeks to control them via regulation. Based on the „Community Charter of Fundamental Rights“, the ESM is a complete package of basic standards; it is a safety net that should secure an appropriate level of earning and living opportunities for all. Its key components can be sketched as follows:

- An EU-wide system of minimum wages, whose level should be around 50% to 60% of the national average wage. In this way it should be possible to prevent

people from slipping into poverty despite having work. We explicitly support the American academics Kochan und Shulman (2007: 5) in their call for „a new social contract“: „A bedrock principle of a modern labour market policy must be to ensure that all who work earn a living wage“.

- Binding rules about the maximum length of daily, weekly, and annual working time, as well as minimum rights to annual holiday leave.
- Establishing a transeuropean labour market free of discrimination by securing the same rights for all, including the protection of minorities, migrant workers, seasonal workers and undocumented workers.
- Enhanced opportunities to balance the obligations of work and family with the aim to ensure that Europeans can be productive workers as well as good parents and community citizens.
- Participation rights in national and European companies as an element of a culture of industrial democracy. Information, consultation, and codetermination rights strengthen the democratic fabric of Europe, improve economic efficiency and contribute to social cohesion within the EU.
- The right for all to be included free of discrimination into social security systems in cases of illness, unemployment and old age.
- Government responsibility to provide a social infrastructure which guarantees access for all to social and general services such as education, the arts, culture, transport, energy and postal services.

Such a system of basic standards should be an element of free collective bargaining – i.e., it should be subject to negotiation processes in which trade unions participate. The individual components are at different stages of development, but they are already so far developed that the completion of the system is no unattainably far-off goal.

(b) Traditional and avant-garde

Studies about social layers in society demonstrate that there is a differentiation across class and national borders between authoritarian and petit bourgeois milieus on the one hand, and a self-assured, self-responsible avant-garde on the other. This distinction is also true for the majority of the population, i.e., workers. Its special feature, however, is that the underclass has more or less resignedly given up. The trade union bridge must try to do justice to the different interests and living situations of a multi-layered workforce by means of a mixture of specific differentiation and solidaristic interest generalisation. The underclass in particular must be

provided with a wide range of helping measures to enable them to escape resignation. Here, measures to improve the education of children from the underclass play an important role in improving their chances to shed traditionalistic constraints. The relationship between a precarious underclass and workers in the middle class milieu is marked by mutual dependence: the more miserable the situation in the underclass, the stronger the downward drift of established workers. Or, put differently: the greater the solidarity with those below, the better it is for all.

(c) Smart growth strategy against unemployment

Economic growth is vital for the elimination or reduction of unemployment. To rise above the threshold of jobless growth, the economy must grow by at least 2% annually. Of course, trade unions can't uninhibitedly push for growth, and for reasons of endangered sustainability, ecologically damaging growth must be excluded – but beyond that there is a large palette of technologies to embrace in order that new markets and new jobs may arise. New technological trajectories aimed at reversing climate change and global warming; building up ecologically sound transportation systems and energy supplies; developing social services and social infrastructure; modernising education, cultural, and health institutions; further developing metropolitan centres into sustainable cities; or developing peace-keeping and peace-making observation systems are only a few examples which should suffice to illustrate the plausibility of the growth and employment potential which lies in new technologies. Iain Begg und Allan Larsson (2007) refer to a new low-carbon growth concept and a new technological paradigm creating a wave of innovation and investment and generating employment and a better environment. They show that economic, environmental, and social dimensions constitute an integral whole, and it is the duty of trade unions to push for investments in human capital, social services and public infrastructure: „Tackling climate change and social exclusion and building a stronger knowledge base is the pro-growth strategy of our time“ (Begg and Larsson 2007: 7). In nearly all branches of the economy there is an enormous growth potential, and by advocating industry-specific programmes for investment in capital equipment and human capital, the respective sectoral unions could help pave the way towards employment security. The opportunities are growing for the implementation of smart growth strategies and the trade unions should become their advocates.

(d) Trade unions as a civil society bulwark against an overpowering state and market.

The triangle of the state, the market and civil society is subject to changing alliances and power relationships. It is important that the actors of civil society, among which trade unions stand out in particular, can build upon solid self-confidence and support from the population, so that they may effectively fulfil their role as a corrective agent vis-à-vis the state and the market.

The market all too often fails to deliver the good deeds it promises, because capitalism's inherent tendency to centralise asymmetrical market power and the resulting supremacy of money and profit gives rise to amoral markets; it therefore needs a regulating counterweight. The capacity of the democratic state to fulfil this function is limited. Even the state always runs the danger of abusing its political power or simply taking poor decisions. One need not go as far as Marx, who saw the state as the vehicle of the ruling class to oppress the working class, in order to recognise that equating the state with the common good is quite naïve. Limiting both the market failure which results from money grubbing as well as the state failure which results from the greed for power thus requires the corrective intervention of civil society. The trade unions should keep more distance from the state, have more faith in themselves, and forge alliances with other civil society actors.

(e) Coordination as a bridge between the national and the European levels

This is an old ailment of the labour movement. While international solidarity was always celebrated in papers, flags and on the first of May, it was often forgotten in the humdrum of daily life. It sounds as though it were contemporary, but it goes back to a union internationalist in 1924: „The workers have international organisations, hold international congresses, pass numerous and high-sounding resolutions. None the less, they continue to restrict their activities to the national arenas“ (Fimmen 1924: 104). What was then at most only a gleam in the eyes of his far-sighted contemporaries – namely a pan-European economic order with a single market and a common currency – is reality today. But this has consequences, because national unionism excludes itself from the process of transforming national rule-setting into a European social model. Put differently, social regulation and trade union activism must follow the market –that is, previously from the local to the national level, and today from the national to the European level. The trade unions are in a similar sit-

uation to national governments: European integration inevitably brings de-nationalisation and a lasting erosion of national sovereignty in its wake. The loss of national autonomy can only be compensated by pooled sovereignty at the European level.

Today, the trade unions' European organisations have achieved a far higher degree of unity and stability than in the 1920s, but there is still a gap between the dense network of national presence and the European network. The more quickly national business cycles dissolve into wider European economic movements, and the more national industries are assimilated into European industries, the more trade union interest representation requires a strong European component. Trade unions' structures are still inconsistent with the economic and political reality of the EU. On the way to a transnational architecture, three phases of the Europeanisation of trade union associations and policy can be identified:

- Coordination is the supranational linking of trade union policy fields. The best-known example is wage coordination. At the European level, the trade unions agreed a rule whereby no national trade union may agree to pay increases which are less than the sum of inflation adjustment and productivity growth. Coordination is thus pan-European rule-making and national implementation.
- A multi-level or multi-layer trade union network is the objectively appropriate distribution of competences and duties among local, regional, national and European trade union units. So one could imagine that the creation of a transnational European Social Model which takes the form of a safety net of high minimum standards would become the top priority of the ETUC. Equally, the development of the Social Dialogue at the peak political level of the EU as well as at the European sectoral level would be the sphere of authority of the trade unions' European organisations. The tough job of collective bargaining would remain the task of the national unions, and company-specific regulations would be up to the local or regional trade union organisations. A multi-level system is thus an organisational structure based on a networked division of labour.
- A European trade union, which unlike coordination and multi-level organisation is a far-off prospect, would be the consolidation of organisational power by means of the incorporation of national organisations. Just as historically, independent local and regional trade union organisations were brought together into national organisations, the national organisations could in future unite into European membership-based organisations. Pioneers who could blaze the trail for others are sectors which are marked by a high degree of supranational in-

tegration together with a high degree of social homogeneity. One example would be the railways.

These three phases capture the development of trade union integration in ascending order; this integration will become ever more necessary as the europeanisation of politics, economies and society progresses, and it becomes ever more possible as the mutual trust between trade unions grows.

(f) Bridges over seas

In Tuscany, the old centre of the Italian textile and clothing industry, Chinese entrepreneurs have bought factories, and now run them as sweatshops in which Chinese workers – one hears of at least 25,000 workers, most of them women – are producing Italian products. This is in effect the importation of early-age capitalist exploitation – that is, jobs without social rights. We are of the opinion that it should be the other way around: European trade unions should put their efforts into creating a European Social Model which can serve as a benchmark for other world regions. Large parts of the world are in a miserable state: dictatorships and authoritarian regimes, which uncontrollably exploit both mankind and nature and suppress their peoples' demands for democratic and social participation, are the rule rather than the exception. Here, the experience of the European labour movement could help. Its historical achievement shows that capitalist regimes can be tamed by flanking them with social measures while their economic performance is enhanced at the same time. This is a message which could also find agreement elsewhere.

Europe is unique because of its social heritage and 50-year experience in shaping a transnational entity. Europe is also the core region of the trade union world. As in no other region, trade unions in Europe can build upon a broad social foothold, institutionally protected rights, and experience in supranational social rule-making. They must therefore also shoulder a great deal of responsibility for social conditions in other parts of the world. Even in their own interest, because an ideal world is in the long run impossible as a national or a European entity, trade unions should build bridges beyond Europe. There is a broad range of possibilities:

- Parallel to partnership agreements between the EU and other world regions, trade union partnerships could be set up.
- The ILO could be expanded to serve as a platform for the worldwide enforcement of fundamental social rights.
-

- Agreements between trade unions and multinational companies about the establishment of global works councils and the commitment to social responsibility could help to improve working conditions in many parts of the world.
- Improving international cooperation between trade unions and increasing the appreciation of the work of the ITUC are further opportunities to make the world a more humane place.

NEW MORAL INSPIRATION

It is an old experience of the labour movement that trade unions cannot always be militant nor can they always be conciliatory. Both are necessary stances: negotiating compromises with employers and enduring conflicts. The capacity to enter into external conflict corresponds with the internal capacity to mobilise – that is, with members' willingness to stand up for their own interests. Risking conflict and organising mobilisation is always related to a just cause. The trade unions are gaining new moral authority for two reasons:

(a) Proposals to shape the future

A purely defensive position, or in other words, a kind of negative solidarity in which everyone rejects something unanimously, is a longstanding trade union battle strategy; it is a necessary but not sufficient condition, however. What must be added are trade union proposals for the solution to a problem or for shaping the future. Here, the trade unions have gained new authority. This could most clearly be seen in the conflict surrounding the EU Services Directive. At the core of the massive trade union protest actions was the rejection of a neo-liberal principle which stood in fundamental opposition to the European Social Model. The superiority of the European Social Model over pure market radicalism rests on a canon of just, humane, democratic and social values. With their smart growth strategy for employment and environmental protection, their future-oriented industrial policy scenarios, and the European Social Model's embedded social security net, the trade unions have the solid building blocks to pave the way towards a new utopian or moral inspiration.

(b) Neoliberal deficiencies

The deficiencies of neoliberal societal and economic policy are becoming more and more apparent. White-collar crime seems to be an elemental part of neoliberal doctrine as does the exclusion of growing parts of the population from societal and social life. A new dimension of social marginalisation has emerged. Millions of workers are pushed aside into unemployment, the informal labour market, and low-wage sectors. If their income from social support payments or poorly paid work is no longer enough to enable them to live above a cultural existential minimum, then this is a case of fundamental market failure and is a moral scandal. The capitalism of creative destruction is producing a new underclass and is destroying the future of coming generations. Not only the defensive protective function but also the offensive, future-oriented element of a yet to be transnationally established European Social Model make it clear: it is a precaution against social exclusion and a framework for the democratic inclusion in social life for all. In place of the neoliberal propensity to creative destruction, the unions should further develop their potential to create utopias.

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The European Trade Union Institute for Research, Education and Health and Safety (ETUI-REHS*) is an international non-profit-making Association.

It has three objectives:

- conducting research, producing studies and monitoring European issues of strategic importance for the world of labour, while building a bridge between the academic and research community and the labour movement ;
- providing education and training activities, programmes and exchanges that strengthen a European trade union identity;
- providing technical support in the field of occupational health, safety and protection so as to achieve a high level of health and safety protection for workers in Europe.

* ETUI-REHS was created in April 2005 as a result of the merger of three bodies: the European Trade Union Institute (ETUI); the European Trade Union Technical Bureau (TUTB); the European Trade Union College (ETUCO).

The ETUI-REHS works with a variety of different organisations including:

- The European trade union movement, its officers and representatives (ETUC) and affiliates;
- Academic establishments, research bodies and trade-union-related institutes;
- European Union institutions;
- National health and safety authorities;
- Organisations involved in promoting health and safety within the workplace;
- Actors working in the field of social Europe.

ACTIVITIES

Building bridges between the research community and the labour movement

"ETUI-REHS produces a European perspective on issues that are of strategic importance for the labour movement across Europe".

Understanding how the European labour market is evolving and how it affects the daily lives of workers drives the research activities of the ETUI-REHS. Conducting intellectually independent research ensures that the major developments that influence European workers and their rights are thoroughly analysed, discussed and monitored. The research – covering industrial relations and social, employment and economic policy – is needed by the European trade union movement and a wide range of socio-economic actors from across the European Union.

To conduct its research, the ETUI-REHS brings together networks of European researchers from across the European union. Examples of networks include NETLEX in the field of labour law, SEEurope in the field of worker participation, SEE as an observer body to analyse developments in south-eastern Europe or the “European Labour Network for Economic Policy” on macro-economic and financial policy developments.

Research areas cover labour law, worker participation, collective bargaining, industrial restructuring, relocation, social and wage dumping, the application of European Union directives (such as the European Works Council Directive), social dialogue, the drive for quality employment, the growing financialisation of the economy and its implications for employment, the issue of “flexicurity” (reconciling flexibility with security) and the social and economic impact of the privatisation and marketisation of service sector employment. It also analyses how European trade unions recruit their members and what strategies they have to attract young people, migrant workers and women.

Promoting a high level of occupational health and safety for Europe’s workers

“Europe’s workers are entitled to a high level of health and safety in the workplace. Europe needs information about occupational health and safety to understand the issue and formulate appropriate policies”

Occupational health and safety is a major concern for Europe’s workers. Four million work-related accidents or cases of illness occur annually within European workplaces. To promote high levels of occupational health and safety within the European workplace, the ETUI-REHS coordinates European networks of health and safety experts and produces research on current and future occupational health and safety issues. It uses this research to advise the European trade union movement.

ETUI-REHS monitors the application of European health and safety legislation including the European Commission's health and safety strategy (2007-2012) via its Observatory. It provides expertise to support trade union members on the Commission's Luxembourg-based advisory committee for health and safety at work. It works closely with the European Union Agency for Health and Safety at Work in Bilbao and is an associate member of European Committee for Standardisation (CEN).

ETUI-REHS monitors health and safety prevention systems and practices, the organisation of work, the incidence of chemical, physical and biological agents, issues surrounding work equipment and the effect of precarious employment on workplace conditions. Its work covers the incidence of stress, violence within the workplace, musculo-skeletal disorders, protecting workers from carcinogens and asbestos, the impact of the new EU regulation on chemicals (REACH) and the rise of nanotechnology.

Strengthening a European trade union identity through training

"European trade unions need their officers and representatives to be fully equipped to operate at European level"

Preparing trade union officers and representatives for defending the interests of working men and women within the European Union is an important ETUI-REHS activity. The ETUI-REHS assists this process by providing practical training courses for the European trade union movement which, in turn, contribute to the development of a European trade union identity.

Training is provided for two specific groups: trade union officers and representatives, and trainers.

For officers and representatives the ETUI-REHS designs and delivers training, which, inter alia, enables them to:

- gain a stronger understanding of recent developments affecting trade unions in Europe;
- acquire a range of operational skills;
- influence decision-making at European level;
- create European trade union networks.

Training courses at a glance :

- Developing future European trade union leaders;
- Reinforcing Social Dialogue and collective bargaining in Europe;

- Dealing with free movement of labour in Europe;
- Creating More and better jobs;
- Recruiting and organising;
- Anticipating and managing change;
- Managing European projects;
- Learning French and English for trade union purposes.

At the request of trade union representatives, the ETUI-REHS also provides specialised training for members of European Works Councils within a wide variety of multinational companies.

A source of information

In addition to its documentation centre, the ETUI-REHS produces and manages a wide variety of publications and web-based resources on a vast array of different issues linked to the European labour market.

Recent publications include: *Benchmarking Working Europe 2007* which provides an analysis of the current debate on flexicurity; books on the question of collective bargaining and the minimum wage; *Transfer*, the quarterly regular European review of labour and research, SEER, a joint review published with the Hans Böckler FoundationStiftung and; HESA News, the Institute's newsletter on occupational health and safety.

In addition to its main website (www.etui-rehs.org) the ETUI-REHS provides several web-based resources including:

www.labourline.org which provides over 42,000 references of relevance to the world of labour;

www.worker-participation.eu which provides information on national systems of industrial relations and European-level issues such as European Works Councils, European companies and the EU social dialogue. This website has been set up with the support of the Hans Böckler Stiftung,;

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