

Euwema, Martin (Ed.); Munduate, Lourdes (Ed.); Elgoibar, Patricia (Ed.); Pender, Erica (Ed.); Belén García, Ana (Ed.)

Book — Published Version

Promoting Social Dialogue in European Organizations: Human Resources Management and Constructive Conflict Management

Industrial Relations & Conflict Management, No. 1

Provided in Cooperation with:

Springer Nature

Suggested Citation: Euwema, Martin (Ed.); Munduate, Lourdes (Ed.); Elgoibar, Patricia (Ed.); Pender, Erica (Ed.); Belén García, Ana (Ed.) (2015) : Promoting Social Dialogue in European Organizations: Human Resources Management and Constructive Conflict Management, Industrial Relations & Conflict Management, No. 1, ISBN 978-3-319-08605-7, Springer Open, Cham, <https://doi.org/10.1007/978-3-319-08605-7>

This Version is available at:

<https://hdl.handle.net/10419/182304>

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Industrial Relations & Conflict Management

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Promoting Social Dialogue in European Organizations

Human Resources Management and
Constructive Conflict Management

Industrial Relations & Conflict Management

Volume 1

Editors

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Disseminating cutting edge theories and empirical research in the field of industrial relations and conflict management, from an interdisciplinary approach, and firmly based in theories on human behaviour in relation to work and organizations. Formally the series will publish monographs and contributed or edited volumes from leading psychology scholars. Specifically, the series integrates theories and research from industrial relations (sociology, business, law and psychology), with those on conflict management, mediation and more generally well-being and productive behaviour in the workplace. Volumes in this series respond to the demands of policymakers and the public, remaining relevant and applicable for science, industry and society. Delivering relevant research and conclusions from local, regional, national and international perspectives. The aim of the series is to contribute to cooperative and constructive relations in organizations at three levels: organizational level, team level and interpersonal level. The series will contribute to the existing academic research and literature by providing an advanced publication platform for improving the science of understanding industrial relations and conflict management. Publishing volumes which deliver valuable contributions from the range of developing perspectives on this subject.

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Martin Euwema • Lourdes Munduate • Patricia
Elgoibar • Erica Pender • Ana Belén García
Editors

Promoting Social Dialogue in European Organizations

Human Resources Management and
Constructive Conflict Management

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ISSN 2199-4544

ISBN 978-3-319-08604-0

DOI 10.1007/978-3-319-08605-7

Springer Cham Heidelberg New York Dordrecht London

ISSN 2199-4552 (electronic)

ISBN 978-3-319-08605-7 (eBook)

Library of Congress Control Number: 2014957504

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Printed on acid-free paper

Springer is part of Springer Science+Business Media (www.springer.com)

EU Text and Logo



This project has been cofunded by the European Commission Employment, Social Affairs and Inclusion DG. Sole responsibility of the content of this book lies with the authors. The Commission is not responsible for any use that may be made of the information contained herein.

Preface

This book is the first volume in a new series by Springer on *Industrial Relations & Conflict Management*.

Traditionally, the field of industrial relations has primarily been a research domain of sociologists and lawyers. It has mainly focused on macro-economic issues of negotiation between employer organizations, unions, and governments, as well as on structural arrangements and legal frameworks of these industrial relations. Conflict management in organizations has dealt with a wide variety of issues, often focusing on organizational behavior at different levels, based on theories of psychology and organizational and management sciences.

Worldwide we see a clear trend of de-centralization of industrial relations towards the organizational level. Especially in Europe, more and more framework agreements between unions, employer organizations and governments are made. These negotiations take place within the organizations, both at a formal level—between works council and management—and at an informal level—between individual employees and their managers or HR departments. At the same time, conflict management has become one of the core elements of the formal social dialogue in organizations, for example on topics such as how to promote social relations and health in the workplace, how to prevent exclusion, discrimination and bullying, and how to manage labor, interpersonal and group conflicts constructively.

So, we see Industrial Relations and Conflict Management in organizations crossing and partly overlapping with each other. In the meantime, the academic fields of Industrial Relations (IR) and Conflict Management in organizations (CM) have developed quite independently. As a result, the academic networks of industrial relations, conflict management and bullying in the workplace, are quite independent, showing only weak ties.

The new series *Industrial Relations & Conflict Management* intends to build an interdisciplinary bridge between these fields. This will be done through the dissemination of cutting edge theories and empirical research in the field of industrial relations and conflict management. The series takes an interdisciplinary approach, however it is firmly based on theories about human behavior in relation to work and organizations.

More specifically, the series integrates theories and research from industrial relations (sociology, business, law and psychology), with those of conflict management, mediation and well-being and productive behavior in the workplace.

The aim of the series is to contribute to the development and dissemination of knowledge to promote cooperative and constructive relations in organizations at three levels: organizational level, team level and interpersonal level.

This first volume illustrates the new series perfectly. The volume presents the results of an interdisciplinary study in 11 European countries on social dialogue in organizations. The study focuses on the experiences and expectations of employers towards the employee representatives in their organizations. The study highlights structural as well interpersonal and group aspects of this social dialogue. The theoretical framework is based both on structural and on behavioral theories.

The core message of this first volume is three fold: 1. Social dialogue is an important instrument for innovative and healthy organizations, however needs a cooperative climate to blossom; 2. Employers in Europe want to invest in constructive and innovative social relations at the organizational level; 3. Employers have many ideas about how to promote and innovate social dialogue.

This innovation of social dialogue is highly needed. Not only in Europe, where the EC promotes such a social dialogue based on the shared values of cooperation between management and employers, however also globally. The quest for sustainable forms of organizing, with a focus on people, profit and planet, requires a constructive dialogue between 'capital' and 'human capital'.

Martin Euwema & Lourdes Munduate
Series Editors

Contents

1 Employee Representatives in European Organizations	1
Martin Euwema, Ana Belén García, Lourdes Munduate, Patricia Elgoibar and Erica Pender	
2 Management Perceptions of Social Dialogue at the Company Level in Belgium	19
Valeria Pulignano and Nadja Doerflinger	
3 Employee Representatives in Denmark. How Employers see them and what they Expect	39
Søren Viemose and Hans Jørgen Limborg	
4 Employee Representatives in Estonia. How are they Perceived and what are the Expectations by Employers?	53
Mare Teichmann and Merle Lõhmus	
5 Employee Representatives in France: Employers’ Perceptions and Expectations Towards Improved Industrial Relations	67
Aurélien Colson, Patricia Elgoibar and Francesco Marchi	
6 Management’s Perceptions of Social Dialogue at the Company Level in Germany	79
Michael Whittall	
7 Management’s Perceptions of Social Dialogue at Company Level in Italy	93
Giovanni Passarelli	

8 Industrial Relations and Works Councils in the Netherlands—Results from Interviews and a Survey among HR Managers	105
Aukje Nauta	
9 Employee Representatives in Poland. How are they Perceived and what are the Expectations by Employers?	123
Barbara Kozusznik and Jarosław Polak	
10 Employee Representatives in Portugal. How are they Perceived and what are the Expectations by Employers?	135
Ana M. Passos and Vanessa Russo	
11 Employee Representatives in Spain. Which are the Perceptions and Expectations by Employers?	147
Lourdes Munduate, Ana Belén García, Erica Pender, Patricia Elgoibar and Francisco José Medina	
12 Employee Representatives and Participation in the United Kingdom	163
Miguel Martínez-Lucio and Arjan B. Keizer	
13 The Tower of Power: Building Innovative Organizations Through Social Dialogue	179
Ana Belén García, Erica Pender, Patricia Elgoibar, Lourdes Munduate and Martin Euwema	
Abbreviation List	197

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Michael has also been invited as a guest speaker by various organisations and universities, on the problems of organising European works councils. Michael has refereed numerous articles for the European Journal of Industrial Relations and the Industrial Relations Journal as well as published widely in a range of refereed Journals.

Chapter 1

Employee Representatives in European Organizations

**Martin Euwema, Ana Belén García, Lourdes Munduate,
Patricia Elgoibar and Erica Pender**

As a farewell gift to employees, customers and taxpayers, one of the top managers of the railways in Belgium, Marc Descheemaecker, wrote a book in March 2014 with his observations in this organization. A key message is directed at the unions, present in the organization and works council. He accuses the unions of blocking any serious innovation, and an unwillingness to renew themselves. They appear ‘difficult’, ‘arrogant’, ‘incompetent’, ‘conservative’ and ‘too powerful’. Their attitude and actions are at high costs for organization and society, according to this CEO. Unions answered that they were pleased he had left the organization.

This is just one example of many cases filling the newspapers daily, of conflicting relations between employers and employees in organizations. The relation between employers, employee representatives (ERs) and unions is delicate, often conflictive, however also with a lot of potential, as the following two examples illustrate.

Paul Nijhoff is a former CEO of Wehkamp.nl. This is one of the most successful online retailers in the Netherlands, winning all kinds of awards, and with double digit growth figures year after year. Nijhoff praises the excellent cooperation with the works council and the unions, in the complete turnover of Wehkamp (the old and almost dead post order company), to Wehkamp.nl. Cooperation was needed, as almost 50% of the employees were redundant and a good social plan had to be developed, while at the same time many new people had to be recruited. A key factor to this successful transition was a close cooperation and creative social dialogue in the organization. There were no collective actions by employees, and due to a good and proactive social plan almost all employees leaving the company found new jobs.

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M. Euwema et al. (eds.), *Promoting Social Dialogue in European Organizations*,
Industrial Relations & Conflict Management 1, DOI 10.1007/978-3-319-08605-7_1

Wehkamp is a showcase of downsizing in which employer, works council (WC) and unions acted as social partners, realizing optimal outcomes for the organization, as well as for the employees, both those who were leaving the organization, and those who stayed.

Bert Van Rompaey, Chief HR of BNP Paribas Fortis, the largest private employer in Belgium, negotiated intensively with the works council, so as to reach a highly innovative collective agreement, with more choice options for employees. This was an intensive and constructive negotiation, in which however the complicated part was the relation with sectorial and national levels of the unions. In actively managing all these relations, parties in the end set a new benchmark in remuneration in the financial sector of Belgium.

This case highlights in a nutshell the need for cooperative relations at all levels, however also the felt tensions between the WC, where employees represent their colleagues and often are more close to the company, in relation to union representatives, taking a more independent perspective of workers in the sector. This tri-partite relationship can be a creative tension, however it also can result in frustrating conflicts.

The core theme of this book is how to create such creative tensions and come to social innovations. We first discuss the role of social dialogue in Europe, and the changes that currently take place. Then we present the framework of the studies forming the base of this book, and the results in 11 European countries participating in the study. These conclusions are the results of the analyses of surveys and interviews gathered from human resources managers in each participating country. We elaborate on the methodology followed further below.

1.1 The Role of Social Dialogue in European Industrial Relations

The European Union promotes a constructive social dialogue between employers and employees. Social dialogue is defined as “discussions, consultations, negotiations and joint actions involving organizations representing the two sides of the industry (employers and workers). Social dialogue is a process by which relevant parties seek to resolve employment-related differences via an information exchange” (Bryson et al. 2012, p. 5). Such a dialogue takes place at European and national levels, at the different work sectors, and within organizations. Even in organizations this can be at central and local levels. The problem-solving potential of this dialogue is crucial for solving organizational conflicts (European Commission 2012). In order to create a good framework for an innovative and creative social dialogue, employees need to be empowered to engage in this dialogue. Social dialogue is needed, however it is also under high pressures, due to the great recession of the past decade. The three examples we just presented show both the potential and the pressures for change. Social dialogue at the organizational level is embedded in the sectorial and societal climate, and therefore influenced by the legal and cultural frameworks for industrial relations at sectorial, national and European levels.

The European Social Model (ESM) is struggling in some European countries after the adoption of fiscal consolidation policies during the financial and economic crisis (Vaughan-Whitehead 2014). In several countries, social partners have been able to set up improvements of the working conditions through social dialogue, with the government's support. This has been the case for example in Germany, Belgium and Luxembourg. Since 2011, the public social expenditure was reduced to pre-crisis levels and together with the changes in public policies the main pillars of the ESM showed to have been hardly weakened in some European countries. Since then, both the International Labor Organization (ILO) and European Commission recognized that the ESM needed to be reformed in order to cope with an increased competition in globalized markets and changing European societies.

As the participants at the joint ILO-EU conference on '*The European Social Model in Times of Economic Crisis and Austerity Policies*' (ILO-EU conference 2014) described, the current changes led to an increase of social conflicts and had direct economic effects (such as lower production, unemployment, less investment, and lower rights). The competitiveness improvement by lowering the wage costs and poorer working conditions, together with other alarming signals, have shown the urge to design the framework to promote the needed changes while maintaining the survival of the ESM (ILO 2014). This becomes a major challenge on the European agenda for the coming years, creating debate among Ministers of Labor, employers and employees representatives, together with policy makers (e.g. ILO and EC).

1.1.1 Perceptions of Employers on Employee Representatives in the Social Dialogue

The renewal of social dialogue is taking place at different levels: European, national, sectorial, regional and at company level. The globalization process leads towards the decentralization of bargaining from national or sectorial to company level, increasing the adaptation of the working conditions (e.g. wages) to local conditions (OECD 2006; Visser 2010). Therefore, currently the company level's social dialogue is the one with most impact for both employers and employees. And here, the perceptions that employers and ERs have of each other determine largely the climate for social dialogue, or the lack of such dialogue. Central in this book is the perception of one of the parties: the employers' view on ERs in the social dialogue.

The EC member states share fundamental values, despite their many differences. One of the core values cherished by the EU is the strong belief that employers and employees are essentially and positively dependent on each other. Their dialogue is both key and necessary and should be constructive. Only balanced power relations can lead to effective cooperation and a real influence by employees on organizational decision making (Frege 2002).

However, the daily realities in European organizations differ from this ideal picture of cooperation. On the one hand, employees feel they are hardly taken seriously

as partners when it comes to strategic decisions. Unions protest against perceived erosion of workers' rights. Downsizing and outsourcing continue in many industrial sectors in the EC. Employers are perceived by employees as money driven, and not to be trusted when it comes to taking responsibility for workers' interests in some countries and organizations (Munduate et al. 2012).

Employers on the other hand, feel that unions gradually represent less of the workforce. Further, they believe ERs are ideologically driven and are not always competent enough to face the current demands. Luckily, there is more besides this gloomy picture. In many organizations there is a constant and lively dialogue between employers and employees. Works councils participate actively in decision making, and unions support institutional change and the renewal of the organizations.

Relationships between WCs, workers and employers differ, some being characterized by trust and cooperation and others, in contrast, are antagonistic and conflictive, fighting for each one's positions and being inflexible in their negotiations. The European diversity is clearly shown when we focus on industrial relations at organizational level, as we will explore through the different chapters. Empirical results are shown in 11 countries with differing systems and traditions.

New organizational conflicts in which ERs play a central role are emerging and therefore their role is now confronted with new challenges in the framework of European industrial relations. An important conclusion from a recent EU action (Munduate et al. 2012) is that clarifying roles and expectations between employers and ERs is needed to develop a constructive dialogue within organizations. By working together and sharing information, managers and ERs can build a more productive and committed workforce as well as a feeling of "being on the same boat". In this work we elaborate on the HR management's perception about the ER's role and expectations and present their suggestions to improve social dialogue in the different systems within Europe.

1.2 Social Dialogue in Europe

1.2.1 *Differences within the Labor Relations Systems in Europe and Their Impact on Social Dialogue in Organizations*

Within the EC, formal representation of workers in organizations has been a value and practice for a long time. A key component in these representation systems is social dialogue. As explained at the beginning of this chapter, social dialogue involves the actions performed by social partners aiming to resolve employment-related issues. The main goal of social dialogue is to promote consensus and democratic involvement among the main stakeholders in the world of work.

Social dialogue is institutionalized in all EC member states. Still, there are many differences related to national legislations, historical developments, and societal

cultures of industrial relations (Hyman 2001). The position and functioning of social dialogue in organizations is closely related to the broader context of industrial relations at national and sectorial level. In the same line, the role played by trade unions and ERs differs largely between countries (Pulignano et al. 2012).

The existence of workplace employee representation structures is a distinctive feature of industrial relations in Europe. One such key structure is the works council (WC). WCs are permanent elected bodies of workforce representatives, set up on the basis of law or collective agreements, with the task of promoting cooperation within the enterprise for the benefit of the enterprise itself and employees, by creating and maintaining good and stable employment conditions, increasing welfare and security of employees and an understanding of enterprise operations, finance and competitiveness (Martínez-Lucio and Weston 2007). In the 27 EU states plus Norway, there are four states (Austria, Germany, Luxembourg and the Netherlands) where the main representation is through WCs with no statutory provision for unions at the workplace; eight (Cyprus, Denmark, Finland, Italy, Lithuania, Malta, Romania and Sweden) where representation is essentially through the unions; another 11 (Belgium, the Czech Republic, France, Greece, Hungary, Norway, Poland, Portugal, Slovakia, Slovenia and Spain) where it is a mixture of the two, although sometimes unions dominate; and a further five (Bulgaria, Estonia, Ireland, Latvia and the United Kingdom) where unions have been the sole channel, although legislation now offers additional options. In many countries new national legislation implementing the EU Directive 2002/14/EC on information and consultation has complicated the picture so that a heterogeneous scenario across the main national realities still persists (Martínez-Lucio et al. 2012).

Prior research often overlooks that members of a WC are first and foremost part of a social group composed of managers and workers. In some countries, the WC's members are ERs only (i.e. Spain). In other countries, management is also formally part of the WC (i.e. Belgium). But irrespective of the specific institutional setting, representatives from employees and management need to relate to one another in order to achieve satisfactory agreements for both parties at the negotiation table. Just like any other group, management and ERs have the need to work together to execute their tasks. By sharing and discussing work floor information, managers and ERs may solve work floor grievances, leading to a more productive and committed workforce (Freeman and Lazear 1995). However, due to the underlying nature of the mixed-motive setting, management and ERs are sometimes reluctant to do so because they fear exploitation by an opportunistic partner. Team research introduces reciprocal trust as a key variable to overcome bottlenecks in mixed-motive settings (Dirks and Ferrin 2001, 2002).

In the best of cases WCs show cooperative relations between both represented sides—management and employees—in a context of mutual trust. In contrast, we can also find less positive cases of relations between management and WC. For example, when the relation is strictly formal and the information exchange is limited. Other examples are relations in which WCs are isolated from management or in which they serve as a 'control tool' for management (Kotthoff 1994).

The involvement of ERs in the decision making process differs also within Europe. Northern countries are usually characterized by a high involvement of social partners in industrial policy (Van Gyes 2010). Southern countries, on the other hand, demonstrate a low degree of involvement of social partners (Elgoibar 2013). Central and eastern European countries show a mixed scenario, with some countries (such as Estonia and Romania) involving social partners in the process and achieving strong industrial policy initiatives, while in others (Czech Republic, Bulgaria, and Slovakia) social partners show little engagement (EU Social Dialogue Liaison Forum 2014).

Other differing features are the relations between trade unions (TUs) and employers. In Germany and Denmark strong relations exist between leading corporations and TUs. This is partly due to the legislation; however it is also due to an awareness of shared interests, such as a strong and competitive economy. Such relationships are absent in the United Kingdom. In most Southern European countries (such as Spain, Portugal and Italy), there is generally low trust between TUs and employers (Elgoibar et al. 2012). In Eastern Europe, markets seem to have a higher priority than social dialogue, which hinders the development of high-trust industrial relations (Teichman and Löhms, Chap. 3 in this book). Therefore, this book takes a cross-cultural approach and results from 11 countries are shown. This approach will allow a more suitable application of the suggestions for improving social dialogue.

1.2.2 Trends Influencing Social Dialogue at the Organizational Level

Three main trends influencing social dialogue at the organizational level should be recognized here:

- a. *De-centralization*. There is a clear trend towards framework agreements, which place more and more room for negotiation and decision making at company levels (OECD 2006; Visser 2010). Flexibility in agreements at national and sectorial levels challenges social dialogue in organizations. Where 20 years ago agreements were negotiated on most important issues between employers and unions at national or sectorial level, nowadays, negotiations on working conditions, health and safety, working hours and even pay become issues at the table at organizational level (Carley and Marginson 2010; Molina and Miguelez 2013). National and sectorial agreements are at best framework contracts, within which negotiations at organizational level take place. This challenges managers and ERs in finding ways to negotiate cooperatively.
- b. *Up scaling at European level*. Multinational organizations in Europe are facing more and more European regulations in relation to labor laws, production methods and work conditions. The dynamics between European representation and national level WCs are new and challenging for all parties involved (Da Costa et al. 2012).

- c. *De-institutionalization and representation.* Maybe the most serious challenge in collective social dialogue can be found at the lower levels of organization and representation of employees. In most EC countries the membership of unions is low and decreasing. Also at organization levels, unions and employers share the need to attract competent and motivated employees to participate in the WC (Visser 2010).

Doekle Terpstra is chair of the board of Inholland since 2010, and former chair of CNV, the second largest union in the Netherlands. Inholland is a large institute for higher education in the Netherlands. Facing several crises, Inholland had to reorganize deeply, including downsizing. Terpstra negotiated constantly with the unions and works council. He commented in an interview in one of the leading newspapers that the WC was good to work with, however the unions were very difficult, more engaged in protecting the rights of older employees (their members), compared to the interests of younger colleagues and the organization. He concludes that this structure of negotiating with external delegates from unions is becoming obsolete. (Source: De Volkskrant, January 31, 2014)

1.3 A Framework to Study and Promote Social Dialogue in Organizations

1.3.1 *Description of the Purposes and Methodology of the Project*

This book presents results of a study among employers in Europe. How do they perceive ERs, what are good practices and where is their need for improvement? This study is part of a larger project, called New European Industrial Relations (NEIRE). The overall aim of the NEIRE project is to improve the quality of social dialogue as a tool for innovation, first, by empowering European ERs, and second, by exploring European employers' experiences and expectations on structures, roles, attitudes and competencies of ERs.

A first study was conducted between 2010 and 2012 co-funded by the European Commission Employment, Social Affairs and Equal Opportunities DG (Project Ref. VS/2010/0376) the Spanish Ministry of Science (Project Ref. PSI 2008/00503 and PSI 2011/29256) and the partner organizations of 8 EU member states (Belgium, Denmark, Estonia, Germany, the Netherlands, Portugal, Spain and the United Kingdom). Its main focus was to explore how to empower ERs. This study included quantitative data from more than 2300 ERs and qualitative data from 80 interviews with ERs from eight European countries: Belgium, Denmark, Estonia, Germany, the Netherlands, Portugal, Spain and the United Kingdom (Munduate et al. 2012).

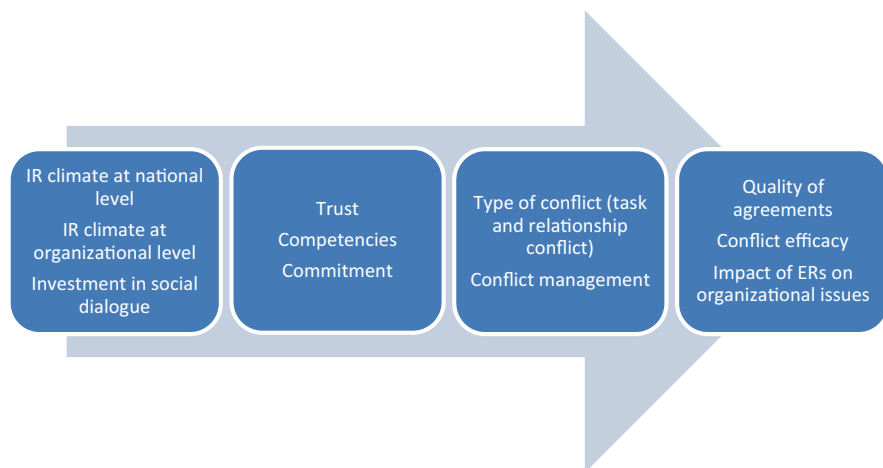


Fig. 1.1 NEIRE model on social dialogue in organizations

A second study has recently been conducted between 2012 and 2014, also co-funded by the European Commission Employment, Social Affairs and Equal Opportunities DG (VS/2012/0416) and the partner organizations from 11 EU member countries: Belgium, Denmark, Estonia, France, Germany, Italy, the Netherlands, Poland, Portugal, Spain and the United Kingdom. This study explores the experiences and expectations of employers about social dialogue and ER roles, attitudes and competencies to act as partners in social innovation. This study includes quantitative data from over 600 HR managers and qualitative data from 110 interviews with HR managers in three sectors: finance, higher education and industry.

The NEIRE study is structured under a model focusing on the key factors that contribute to social dialogue in European organizations. This model is depicted in Fig. 1.1.

We elaborate here on the model, starting with the outcomes, and then exploring the factors leading to these outcomes. As can be seen in Fig. 1.1, the main outcomes of a constructive social dialogue in organizations are high quality of collective agreements in organizations, impact of ERs on organizational issues, and conflict efficacy; the perceived ability of the organization and WC to deal in an effective way with potential and actual conflicts.

1.3.1.1 Quality of Collective Agreements in Organizations and Conflict Efficacy

According to the characteristics and quality of collective agreements in organizations, they are dependent on the way management and ERs solve conflictive issues (Amason 1996). Collective agreements in organizations have high quality when both parties' needs are optimally met, and all parties on the negotiation table commit

to its accomplishment. Conflict efficacy refers to the believe of parties (as a whole) that they are effective in solving conflictive issues in a satisfactory and constructive way (Van de Vliert et al. 1999). In that sense, conflict management and ERs' competences become important factors for the HR manager to achieve the desired quality and conflict efficacy, for example by focusing on task related conflicts, and preventing relationship conflicts (Hempel et al. 2009).

1.3.1.2 Impact on Organizational Issues

According to the impact in decision making processes, ERs serve as a bridge between managers and their co-workers, representing a key element of social dialogue. However, they have been losing influence in the recent years and this is even more obvious in certain countries (Molina and Migulez 2013).

How much do ERs actually participate in the decision making in European organizations? Would it be better if they had more power? How could they achieve more influence? We analyze the willingness of employers to empower their ERs, as well as the factors determining the impact ERs have in organizations. Gaining impact is closely related to the labor legislation in each country however, at the organizational level the motivation and competencies of the ERs and the attitudes of the employers play a main role in determining ERs' power and influence (Euwema and Elgoibar 2012).

1.3.1.3 Type of Conflict and Conflict Management

We differentiate relationship and task conflicts, the first being conflicts about values or interpersonal styles, while task conflicts refer to disagreements over distribution of resources, procedures and policies (De Dreu and Weingart 2003; Jehn 1995). Traditionally, research has concluded that relationship conflict can damage the organizational climate and performance of individuals, teams and organizations (Janssen et al. 1999). Task conflict can be productive, enhancing the quality and acceptance of negotiated outcomes (Olson et al. 2007), however, only under specific conditions and in a cooperative context (De Wit et al. 2012).

According to conflict management strategies, we focus on cooperative and competitive strategies and the combination of both. Previous research concluded that ERs tend to combine cooperative and competitive behaviors (Elgoibar 2013; Munduate et al. 1999). However, such combinations usually represent either a more cooperative or competitive approach (Van de Vliert et al. 1995).

1.3.1.4 Trust

Trust is recognized as key in the relation between management and ERs. Definitions of trust focus on the willingness to accept vulnerability based upon positive expectations of the intention or behavior of the other party (Rousseau et al. 1998).

Trust leads to more cooperative negotiation behaviors, while low trust leads to more competitive behaviors (De Dreu et al. 1998; Dirks and Ferrin 2001). Trust gives parties the confidence to be open with each other knowing that the shared information won't be used against them (Zaheer and Zaheer 2006). Previous results show that trust moderates the dysfunctional consequences of conflict (Simons and Peterson 2000). Theories on trust define different antecedents (Mayer et al. 1995), however the abilities of parties is always key, along with benevolence and integrity.

The ability to develop trust has become a critical competence in employment relations (Lewicki et al. 1998). The trusting qualities of the relations between ERs and management are critical for successful social dialogue (Elgoibar et al. 2012).

1.3.1.5 Competencies of ERs

One of the aspects that most affects how much influence is given to ERs is their perceived level of competences. Competencies are defined as the knowledge, skills and attitudes of ERs. Managers generally state that ERs need knowledge about the company's dynamics, negotiation skills and a flexible and innovative attitude (Soares and Passos 2012).

1.3.1.6 Commitment of ERs

Another important factor related to the quality of social dialogue is the commitment to the organization. ERs have to be committed to co-workers but also to the organization in order to achieve flexible and innovative negotiations (Jensen et al. 2012). Not less importantly, ERs' commitment also affects the image they have for employers, trustworthiness being one of the most visible elements affected by this. Employers need to trust ERs before they support their participation in the decision making processes of the organization, therefore building on trust is of pressing importance. We can expect that in organizations where ERs show that they are committed to the organization and its goals, ERs will be more trusted by employers and they will use more cooperative strategies, although there will be differences across countries in the extent that people condition their own cooperation based on their trust in others (Balliet and Van Langen 2013)

1.3.1.7 Industrial Relations Climate and Investment in Social Dialogue

All previous mentioned factors are embedded in a specific climate of industrial relations (IR). The national level (including sectorial differences) impacts the climate at organizational level. A historical and socio-cultural perspective helps to understand how each country has structured and invested in social dialogue, and how the social partners relate to each other within such structures. IR climates can

Table 1.1 Cooperative and competitive climate for industrial relations in organizations (Source: Adapted from Deutsch 2006, pp. 27–28)

Cooperative climate for IR	Competitive climate for IR
Effective communication is exhibited	Communication is impaired as parties seek to gain advantage by misleading the other (e.g. false promises, disinformation)
Friendliness, helpfulness, and lessened obstructiveness	Obstructiveness and lack of helpfulness lead to mutual negative attitudes and suspicion of one another's intentions
Feeling of agreement with the ideas of others and a sense of basic similarities in beliefs and values, as well as confidence in one's own ideas and in the value that other members attach to those ideas Recognizing and respecting the other by being responsive to the other's needs	The repeated experience of disagreement and critical rejection of ideas reduces confidence in the other
Willingness to enhance the other's power (e.g. knowledge, skills, and resources)	Parties seek to enhance their own power and to reduce the power of the other
Defining conflicting interests as a mutual problem to be solved by collaborative effort	The competitive orientation stimulates the view that the solution of a conflict can be imposed only by one side on the other
Investing in social dialogue and relation	Minimal investments in relation
Empowerment of employee representatives	No empowerment of the other party

be described on different dimensions. A basic model often referred to is 'competition' versus 'cooperation' in industrial relations. Closely related to this, is Deutsch's (2006) model on cooperation-competition. Central in his thinking is that cooperative structures, promote a cooperative culture and behaviors, and vice versa. A competitive context is related to competitive behaviors (Gelfand et al. 2012). When parties have a cooperative orientation towards conflict, they discuss their differences with the objective of clarifying them and attempting to find a solution that is satisfactory to both parties, so called win-win solutions (Carnevale and Pruitt 1992; Deutsch 2006). In a cooperative relation both parties are willing to invest in the relation, empowering one another. In competition, there is usually a winner and a loser (Carnevale and Pruitt 1992). The main characteristics of both orientations are presented in Table 1.1.

A climate of cooperation or competition shapes the perceptions of the social partners as trustworthy, reliable and competent (cooperative approach), or in contrast, not trustworthy, incompetent, conservative, and not committed to the organization (competitive approach) (Fulmer and Gelfand 2012; Mowday and Steers 1979; Wright et al. 2001). One or another IR climate is also related to the way social actors invest in the quality from social dialogue (European Commission 2012). Investing in social dialogue is seen also in a very practical way, stimulating ERs optimally to play their role in the organization.

Investing to Promote Social Dialogue or to Prevent Social Dialogue?

Some organizations invest in facilitating ERs and WCs. The ERs have sufficient time available for their tasks, they are well and timely informed, and have facilities. Other organizations do not invest in these issues. For example, when the organization grows and reaches 50 employees (in many countries the threshold for formal WC), management will split the company, so as to prevent the formation of a WC. So in this sense, it could be considered that they are even to prevent social dialogue rather than to promote it.

1.3.2 The Results at a Glance

The following chapters in the book will explore managers' perceptions of the role of ERs in each of the 11 participating European countries. Here we present shortly the overall results for Europe as a whole. These are based on the 110 interviews, and a survey among more than 600 HR managers in these 11 countries. There is a wide variety of sectors and organizations represented.

The value within Europe for social dialogue is widely shared. Managers in Europe largely agree that ERs play a necessary role in social dialogue, and most of the managers interviewed see the value of such structured dialogue in their organization. Many make a clear differentiation between ERs, being their own employees taking up an extra role as representative, and shop stewards from unions who are working for the unions. The latter are perceived as more problematic usually. The survey focuses on the perceptions of ERs, so the employees in the organization taking up a role as representative for their co-workers.

Figure 1.2 presents the general means obtained overall. The survey used a 1–5 Likert scale, so roughly any score under 3 can be considered relatively low, and above 3 as relatively high. As can be perceived in Fig. 1.2, the general picture is rather moderate. However, some aspects are more positive, while others are cumbersome.

Starting at the left of Fig. 1.2, we see that overall, the level of *trust by management in ERs* is moderate. And the interviews emphasize a need for a further increase here. The next three aspects are considered as indicators of trustworthiness—*ability*, *benevolence* and *integrity*—and all appear to be above the middle point, being ability of ERs the lowest, and integrity highest.

The most problematic aspect is the perceived level of *competences of ERs*. This indeed also is highlighted in many of the interviews. Managers often perceive ERs as lacking important competences to act as a strong counterpart in negotiations and problem solving with management. Managers express the wish of meeting competent ERs at the negotiation table. However, in general they believe ERs lack many of the attributes they would want them to have, for example being knowledgeable on business economics and change, being innovative and proactive or having good negotiation skills. Managers seem to perceive a relatively low impact

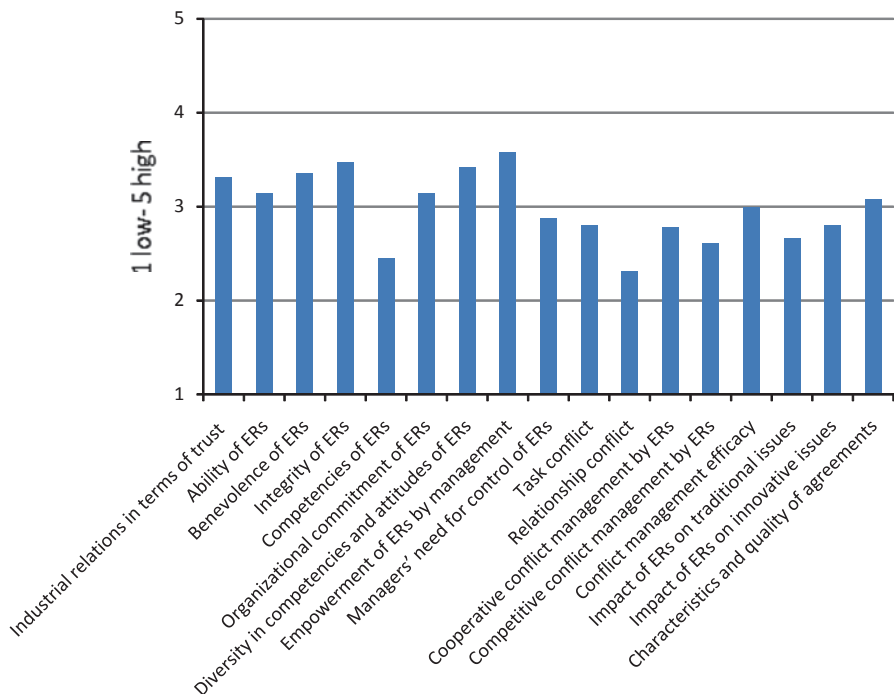


Fig. 1.2 European means of the variables included in the study

of ERs on the different organizational topics, and they relate this mainly to a lack of competences.

Commitment of the ERs to the organization is perceived as relatively positive. Most ERs are not perceived as employees who are not interested in the wellbeing of the organization.

Interestingly, the highest score is given to the level of *empowerment*. Managers believe they empower ERs substantially, and their need for control of ER actions is below the mean (although close to it).

Task conflict is considerably higher than *relationship conflict*. Indeed, also the interviews testify that often the personal relations between management and ERs are ok, and parties do accept each other's role.

Cooperative conflict management is perceived relatively somewhat more frequent than *competitive conflict management* by ERs, however, both are present, and as mentioned before, they don't exclude one another.

The *impact of ERs* on organizational decision making is not seen as very high, with the impact on *innovative issues* being somewhat more than on *traditional issues*, such as income and working hours. This might be partly due to the decentralization of specific topics to the organizational level, where ERs and works council have more of a say.

Quality of collective agreements in organizations as well as *conflict efficacy* score over 3 in Europe. This together with relative positive scores on trust, empowerment of ERs and diversity among ERs might be the key ingredients for a more innovative social dialogue.

1.3.3 Empowerment of ERs

A key message of this study is that according to management in organizations, ERs need to further develop essential competences. ERs nowadays are expected to deal with highly complex issues as restructuring and downsizing, and a wide array of HR issues. They have to discuss and negotiate on a wider variety of topics than in previous years. Also, the arrangements become more flexible, meeting individual needs of workers. This implicates new and complex competencies for representatives, and most likely increased role conflicts. Therefore, it is essential that unions together with employers, stimulate employees to take up representative roles, develop these competences, and retain in these roles, at least for several years. Employers express to a large extend their willingness to invest in good social dialogue. However, they also see needs for change and improvement. This will be demonstrated in the following chapters for 11 EC member states. And these results will be explained in more detail in the final chapter of the book (Chap. 13), elaborating on each aspect and on the possible explanations and implications of the results.

1.3.4 Structure and Content of this Book

The following chapters describe and analyze the results obtained through the interviews and surveys to HR managers in each country.

- Each chapter starts with a short overview of the historical and legal context of labor relations and the structure of ERs at organizational level.
- This is followed by the results of the interviews, focusing on the experiences with and expectations of ERs by management.
- Then the results of the survey among HR managers in the particular country are presented and discussed in perspective of the European picture presented earlier here.
- An important part of each chapter is devoted to good practices, and suggestions given by HRM to improve social dialogue.
- Each chapter concludes with some reflections by the authors, placing the outcomes in a broader perspective, and coming to some concluding recommendations.

This book contributes to give:

- A deeper understanding of social dialogue at organizational level in Europe.
- Insight into management's experiences and expectations towards ERs.

- Perspective on the context of the differences in social dialogue in Europe.
- Inspiring ideas of how to innovate social dialogue.

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Chapter 2

Management Perceptions of Social Dialogue at the Company Level in Belgium

Valeria Pulignano and Nadja Doerflinger

2.1 The Context: Industrial Relations in Belgium

2.1.1 *The Main Features of the Belgian System of Industrial Relations*

The Belgian system of industrial relations has three main features. Firstly collective bargaining arrangements are characterized by relatively high stability and centrality. This means that collective bargaining is highly structured with a central level at the top (inter-sector) covering the whole economy, an industrial level beneath, covering specific industrial sectors, and company level negotiations at the bottom. Belgian inter-sector bargaining is characterized by multi-industry agreements (Inter-Professional Agreements or IPAs) which are usually valid for 2 years. In addition to this, in Belgium there is the possibility to conclude inter-sectoral collective agreements covering all sectors nationally, concluded in the National Labor Council, comprised of the most representative inter-occupational employers and workers' organizations. In this respect an IPA sets the framework for pay increases and also deals with a wide range of employment-related topics, such as job creation measures and vocational training, bridging pensions, and the older unemployed. With this regard, inter-sector agreements are often known as "social planning" agreements because they provide the framework for social and employment policies over the subsequent 2 years (Vilroxx and Leemput 1998). Traditionally the construction of the welfare state in Belgium was largely carried out through these agreements. This is a characteristic which is distinctive of Belgium, and which contrasts particularly to those European countries with a dual system of interest representation.

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The second feature of the Belgian system is the highly institutionalized pyramid of negotiation. As above mentioned, the signing of an overall central agreement initiates a hierarchical sequence of negotiations at lower levels, resulting in inter-sectoral, sectoral and company level agreements. At inter-sectoral level, elements of the programmatic central agreements are developed further in economy-wide collective agreements (in the National Labor Council) or embodied in legislation. Other elements are the subject of bipartite negotiation at the sector level and subsequently of company-specific agreements in negotiations between management and the trade unions. For example, pay and working time are also covered by collective agreements negotiated within the sector-level joint committees (*Paritaire comités/Commissions paritaires*). Moreover, negotiations on pay take also place in some companies. In each case, however, the lower level (sector or company) can only agree to improve what has already been negotiated at the above level. This means that, specifically for the sector level, collective agreements can develop within the framework of the inter-sector agreement.

The third specificity of the Belgian system is the automatic linkage of wages to the price of goods and services (indexation mechanism). Under this system of 'indexation' an automatic rise in wages is triggered following the rise in the cost of living. This indexation system is considered a *modus vivendi* of the Belgian export-oriented economy (Vandaele and Bouché 2003). It is generated by the pragmatic consensus between capital and labor about the automatic adjustment of wages to prices, and therefore within this logic can be considered as an element of social stability. Because of this consensus, Belgium was the only country in Europe (apart from Luxembourg) where the automatic indexation mechanism became a sort of common practice (Luyten 1995; Scholliers 1991). However, this does not exclude that the wage indexation mechanism has been going through gradually enforced adaptations. Since the last years the modalities of the indexation system have changed. Most importantly, the adapted version of the *Law on Competitiveness* (1996) set a new framework for wage bargaining. In accordance, the wage margin approximates the average of the wage increases expected in Belgium's three main neighbor countries (Germany, France and the Netherlands) in order to safeguard national competitiveness. This means that wage increases should remain below those expected in these countries. In so doing the 1996 Law re-attributes to the social partners the full responsibility in the settlement of wage agreements, which should be based on a so-called "technical report" on wage developments and forecasts on optimal future evolutions provided by the Central Economic Council. The possibility by the government to intervene by imposing measures unilaterally it is not excluded in case the social parties fail to reach an agreement (Vanthournout and Humblet 2011).

Since the last decades, following increased international competition, a number of innovations have been made to the principles and practices of the centralized collective bargaining structure in Belgium to adjust to the above pressures. These adaptations mostly include the types of the agreement made as well as the content of the agreement, which slightly changed within a bargaining structure which still remains quite centralized and strongly institutionalized. In the following sections we will discuss these changes and assess the position of the Belgian system of inter-sector bargaining in a comparative perspective in Europe.

2.1.2 *Resisting Global and National Challenges?*

Despite the fact that decentralization of industrial relations is a feature of the Belgian system too, inter-sector and sector-level agreements have not disappeared in the country as a result of the increased number of company agreements, nor has its significance declined or being put under pressure during the last decades in Europe. This includes also the maintenance of the wage indexation. Among the employees currently covered by collective agreements (almost 96 % of the workforce), Belgium is one of the few countries in Europe where in 2007–2009 bargaining coordination—in terms of a mixture of inter-sector and sector bargaining—and bargaining centralization—in terms of a presence of inter-sector bargaining with derogation and additional sector or company bargaining—scored comparatively higher than other countries in Europe (European Commission 2010 p. 41).

The European Foundation for Working and Living Conditions (2010) reports that the Belgian collective bargaining system has been quite stable over the last decades with only limited variation in coverage levels and changes in bargaining practices. There is also no clear shift towards the decentralization of wage-settings, as the result of the introduction of ‘opening clauses’, as in other European countries, in particular Germany. This is probably because the Belgian labor legislation does not explicitly provide for the possibility of sector- and company level deviations from inter-sector (and sector) collective agreements that go below the standards set at inter-sector (and sector) level. However, there are a number of adjustment mechanisms available to companies in economic difficulties that do not concern wages. Here, as the current financial crisis clearly illustrated, the government sponsored programs allowing for the temporary reduction of working time or temporary unemployment (*tijdelijke werkloosheid/chômage économique*) play a key role.

Nevertheless, international pressures (e.g. in terms of competition) have pushed Belgium to change and adapt the system as in other national European economies. As a result, although the collective bargaining system retains its stability and centralized institutionalization, the content of the agreements have been gradually adapting over time. For example, since the mid-1990s wage costs in Belgium have increased moderately in order to protect competitiveness (Ververcke et al. 2008). Keune (2008) reports that between 1997 and 2006 hourly productivity in Belgium in the private sector increased by 14.9% while real hourly wages grew by only 8.8%. This disproportion indicates that wage moderation occurred in a context where inter-sector negotiations deliver the wage norms agreed by the social partners in accordance to the *Law of Competitiveness*.

Aside a centralized (‘top-down’) and institutionalized collective bargaining system, a ‘bottom-up’ approach has been also an historical characteristic of the Belgian system of industrial relations. In particular, Belgian trade unions retain the language and culture of a grassroots (class) movement (Van Ruysseveldt and Visser 1996) while at the same time they are involved in consultation bodies on social and economic matters at the inter-sector and sector levels. As a consequence, the presence of a latent radicalism survived in the trade union movement in Belgium. However, agreements are still reached in Belgium between the social partners despite the climate of difficulty.

2.1.3 Social Partners and the Crisis

Since 2008, Belgium has been confronted with a major economic crisis like the rest of Europe. Trade unions were concerned by the decrease in workers' purchasing power while employers were worried about a probable uncontrolled increase in wages. Meanwhile, the country has experienced severe political tensions since 2007, with the government in a situation of great volatility—leading to its collapse again in December 2008 over the state bail-out of Fortis Bank. In this period of intense internal and external crisis, in December 2008 the Belgian government under Yves Leterme announced a stimulus plan aiming to revive the economy in the light of the current global economic crisis. The development of the plan coincided with the social partners' negotiation of their biannual inter-sector agreement.

Against the background of economic crisis, looming recession and internal political instability, with regard to the 2009–2010 agreement, the social partners focused their demands on workers' purchasing power and company competitiveness. The government's plan thus includes provisions for the inter-sector agreement and the means to finance the proposed measures. The agreement aimed to restore the confidence of workers and employers in the economy by finding a balance between competitiveness, purchasing power and employment levels. Despite the employers' organizations willing to introduce some adjustments to the mechanism of automatic indexation of gross income, the mechanism remained unchanged. The Belgian employers' organizations perceive the automatic indexation as preventing Belgian companies from being competitive compared to their European counterparts, and therefore, having negative effects for the Belgian economy overall. Yet, the trade unions believe the system prevents major losses in workers' purchasing power, which is essential to maintain the economy in good shape.

Another key aspect is the higher benefits given to workers who are temporarily unemployed and the increase in benefit from tax reductions on labor costs and financial incentives in order to recruit long-term unemployed people offered to the employers. Internal political instability and external economic crisis made the negotiations between the social partners at that time difficult. Nonetheless, the government was able to act as a mediator by introducing measures of special taxation and fiscal easing which stimulated both sides to agree on a proposal for an inter-sector agreement. Despite the government's mediation role, negotiations for an inter-professional agreement in 2011/2012 conversely failed. The negotiations on the formation of a new federal government inhibited its role. Specific measures were introduced to prevent redundancies and to support unemployed people in getting back to work. A key measure was the amendment of (temporary) short-time working measures, in order to protect workers from unemployment and excessive income loss. Moreover, the social partners (representatives of employers and trade unions) presented a proposal of inter-sectoral agreement. The main engagements were: a postponement of the discussion on whether or not maintaining the automatic wage indexation system; a very limited wage rise above the inflation rate; the unification of the blue collar and white collar statutes into one uniform statute. The latter was achieved and completed in summer 2013. It is without doubt that the lack

of an inter-professional accord in 2011–2012 potentially contributed to decrease the bipartite character of the industrial relations in Belgium and moves the bargaining in tripartite direction (Van Gyes 2013). In some way, the social partners missed the opportunity to develop new forms of social dialogue in order to work out an own regulation implementing the new European requirements. The clearly more centralized character of the last negotiations is a turning point compared to the pre-crisis trend of creating extra margin for sectoral bargaining.

2.2 What Do Human Resources Managers Say? Conclusions Drawn from the Interviews.

2.2.1 Overall Evaluation of Company Level Social Dialogue

Against the background of the specific Belgian system of industrial relations, this section principally deals with the opinion of human resources (HR) managers on company level employee representation. An overview of the interviews carried out in the context of the project between April 2013 and July 2013 can be found in Table 2.1. Each semi-structured interview took about 1 h, covering topics related to social dialogue and the relationship between the social partners. In total, ten interviews were carried out in five different sectors. The relatively small number of interviews certainly causes limitations and therefore, we do not aim at generalizing our findings to the wider Belgian context. In contrast, the reported results are rather specific to the particular cases chosen in the context of the research project.

Overall, most of the interviewed HR managers across all the sectors investigated are satisfied with company level social dialogue in their companies. Belgian HR managers do not put social dialogue into question, but appreciate its function. However, we observe a difference between companies that are doing well and those facing crisis. Specifically, Manufacturing 1 and Food 1 were severely affected by the global financial and economic crisis. Although they underwent restructuring, they are still exposed to crisis effects. The difficult economic situation of these companies impacts on social relations, decreasing the level of trust between the parties at the bargaining table. HR managers in both companies point out that the climate had been much better previously and therefore, strive for getting ‘back to normal’, as stated by the HR manager of Manufacturing 1:

The industrial relations climate in our company is certainly not bad as there is respect for each other, but there is also a feeling of distrust at the moment. (Manufacturing 1)

Food 1—the other selected company in economic trouble—also points out that a series of restructuring projects, which were developed in order to adapt to the difficult external environment, resulted in low trust between the parties involved in social dialogue.

Table 2.1 Evaluation of company level social dialogue, per company

Company	Overall evaluation of company level social dialogue
Bank 1	Very constructive, highly appreciated emphasis on dialogue, good climate
Bank 2	Quality of social dialogue very good, this is highly appreciated
University 1	Very good and constructive social dialogue, trustworthy relationships between the parties
University 2	Very good, constructive and easy social dialogue
University 3	Good and constructive social dialogue
Manufacturing 1	Highly dependent on business unit, ranges from very innovative to challenging (company is in crisis)
Manufacturing 2	Open and constructive dialogue with good outcomes
Food 1	Difficult social climate at the moment due to various restructuring projects; climate at the very moment a bit turbulent and agitated
Food 2	Positive, good and trustworthy social relations; social dialogue is taken seriously by both parties involved
Energy 1	Tensions between the parties, social relations have been challenged due to various restructuring projects, social dialogue is difficult at the moment

Overall, none of the interviewed managers had a negative view on the Belgian system of industrial relations and social dialogue itself—in contrast, every respondent stressed the added value of company level social dialogue for employers and employees.

In the other investigated companies, social dialogue works in a positive and constructive way, leading to the fact that it is appreciated by both parties involved. The HR manager in Bank 1 states in this respect:

We recognize the importance of trade unions. [...] We have to keep trade unions on board by involving them permanently. [...] Social dialogue is of course very expensive, however, it is worth investing in it. [...] The unions are key in reflecting what is going on in the company. It's not a waste of money. In big companies, trade unions play an essential role representing the workplace and identifying weaknesses, risks and challenges in the workplace. (Bank 1)

Bank 1 emphasizes the importance of integrating unions in decision-making, particularly due to their good view on the workplace. Moreover, possible factors of success leading to a good industrial relations climate and a constructive social dialogue are identified by the HR managers of University 1 and 2.

We have always been very transparent. This kind of openness is highly appreciated by the unions. This—together with trust and respect—creates a constructive atmosphere to work together. (University 1)

Social dialogue is very effective here. Our employee representatives are very competent, they have the appropriate education. This arguably facilitates dialogue. (University 2)

Transparency, trust and respect are emphasized by University 1's HR manager, while competences are highlighted as success factor by University 2. Generally, the level of trust between the social partners was high in most of the investigated organizations and

trust is widely seen as a precondition for a constructive social dialogue. Competencies were evaluated positively by most HR managers, too. This again stresses the overall satisfaction of HR managers with company level social dialogue.

Beyond, it is interesting to observe that social dialogue differs depending on the sector of investigation based on our data. The sector with its specificities like distinct technology, the nature of the workforce and the presence of sectoral collective agreements is likely to impact on organization level social dialogue. Within the ten investigated organizations of five sectors, social dialogue seems to be more conflict-driven in manufacturing, the energy and the food sector, whereas it is rather consensus-driven in banking and higher education. In the former, resulting compromises mostly mean that each party has to give in to come up with a compromising solution, whereas in higher education, there are hardly any negotiations as there is general agreement and consensus on most topics. It is remarkable that in our sample, companies with production-activity seem to be more conflict-oriented than organizations in the service sector. This can probably be explained by two aspects: Firstly, the nature of the workforce differs between the two clusters of companies. The higher education and the banking sector feature a highly-skilled white-collar workforce, whereas companies with production activity have a more diverse workforce, comprising both blue- and white-collar staff. Secondly, the two clusters have developed differently in the past decades. Higher education has been thriving, and banks flourished before the crisis and are getting back to normal. In contrast, production activity has steadily decreased in Belgium in the past years, leading to plant closures and job losses. As a result, especially in manufacturing, company level social dialogue had a different focus than in banking, where the main concern was safeguarding jobs and if that proved to be impossible, to negotiate social plans. In contrast, this has never been done in the investigated companies in higher education, where closure and the consequent loss of jobs had never been as issue. Therefore, both the nature of the workforce and the particular 'history' of the sector might to a certain extent explain the conflict- or consensus-oriented nature of company level social dialogue. Thus, the specific context of the sector a company belongs can provide valuable explanations when studying company level social dialogue.

2.2.2 Changes Desired by Employers

In the light of the general satisfaction regarding company level social dialogue, the HR managers highlighted three aspects that they would like to change in the long-run in order to make social dialogue more efficient and create space to find innovative solutions together with employee representatives. Firstly, employers express an interest to simplify employee representation structures in order to reduce complexity. Secondly, several HR managers evaluate the attitudes of employee representatives as problematic, due to a lacking openness towards change. Finally, about half of the respondents point out that the relationship among the different trade unions can cause problems, especially if trade unions themselves do not speak with one voice.

2.2.3 *Structures of Employee Representation*

Some of the interviewed HR managers perceive the structures of employee representation as inadequate. In about half of the companies that were studied, there is more than one works council, more than one committee for health and safety and various union delegations (for workers, employees and sometimes also for executives). Most of these structures are historically grown (i.e. via mergers or acquisitions). Furthermore, in most cases, they reflect also the regional division of the country (i.e. Brussels, Flanders and Wallonia). HR managers desire to change and simplify these structures in order to gain in flexibility when there is a need to provide rapidly an answer to the changing market. The HR manager of Food 1 emphasizes:

Some employee representatives see that the growth of the company and its international expansion led to changes. Especially the small sites loose power as national interests have become more important than local interests. (Food 1)

According to Food 1's HR manager, changes in company structures should also be reflected in the structure of employee representation. In practice and due to various acquisitions in the past decades, Food 1 has currently seven different works councils in Belgium (one per site) and is interested in reducing the number to maximum two, in order to decrease complexity and improve coordination. Each site also has its own committee for health and safety, and different union delegations for workers. Furthermore, there are several working groups and a European Works Council. Similar structures exist in Energy 1—a former public sector company that has been privatized—as stated by the HR manager:

We have historically grown structures that are not easy to understand and to deal with. The structures are too heavy and overloaded. We need to reduce complexity by implementing a new structure that is more comprehensive and clear in order to stimulate better collaboration. (Energy 1)

Although Energy 1 has only one works council in Belgium, there are three committees for health and safety, three local committees for Brussels, Flanders and Wallonia, one national delegation, several social committees, local joint committees, ad-hoc working groups and a European Works Council. The company has sought to simplify the structure in order to improve clarity, reduce complexity and advance social dialogue. According to the HR manager, this would make social dialogue less costly and more efficient, especially due to the fact that the time needed to make decisions could be reduced. However and similar to Food 1, employee representatives are reported to stick to structures present at the company level to ensure that the interests of the workforce are represented in the best way, but following the HR management, also because they are afraid of losing power.

In Bank 2, it is not primarily the presence of a number of different employee representation bodies creating problems, but rather the large size of the works council that seems to inhibit efficient decision-making. However, the size of the works council depends on the number of staff according to Belgian law (the more staff, the more works council members). Being one of the largest private employers in Belgium explains the size of Bank 2's works council. The HR manager states:

Our works council is too big with about 30 members. Therefore, we created various smaller social committees. Within this more innovative and flexible structure, in-depth discussions can take place. (Bank 2)

The solution presented by Bank 2's HR manager—setting up working groups—is done in most of the investigated companies. According to management, there are two crucial advantages of this strategy: Firstly, working groups mostly consist of a small number of employee and employer representatives who have expertise in the general topic. Both the size of the group and the knowledge on the topic facilitate discussions. Secondly, working groups are utilized in order to talk and solve potential problems before officially starting to negotiate. The HR manager of Food 2 reports that according to him this creates good solutions for both employers and employees:

Talking about sensitive topics—especially in working groups—before officially starting to negotiate and trying to find solutions for conflicting issues helps to create good outcomes for both sides at the table. (Food 2)

Furthermore, according to HR managers, informal communication may be a way to increase predictability of outcomes in company level social dialogue. As stated by Bank 1's HR manager:

Informal communication and meetings are key to avoid negative surprises. (Bank 1)

Yet, informal communication requires trust between the social partners in order to keep possible agreements confidential until the beginning of the official negotiations. Following Bank 2's HR manager, this works pretty well:

There has never been a problem of violation of our 'moral agreement' of confidentiality when information is exchanged informally. (Bank 2)

2.2.4 Openness Towards Change

As mentioned before, HR managers are generally satisfied with the competences of employee representatives. However, in terms of attitudes, they desire more openness towards change. The majority of the interviewed HR managers link this with the long tenures involved in employee representation functions. However, this cannot be generalized as for instance Manufacturing 2's HR managers views long tenures as a success factor for company level social dialogue. Accordingly, long tenures contribute to create stability and continuity and therefore, the company seeks 'lifelong' appointments of employee representatives. In general, most employee representatives have long tenures within the organization (more than 15 years) and mostly also in their function. This creates the potential of comparing the organization's current situation with the past, as stated by the HR managers of Manufacturing 1, Food 1 and Energy 1:

We should have launched some change management initiatives. Many employee representatives still feel like working for [company name] 20 years before when we had our golden time. They do not want to face the fact that especially the external environment has changed. (Manufacturing 1)

The attitudes of employee representatives are certainly more problematic than their competences. They like to look in the 'glorious' past and do not perceive that nowadays, certain things are just different than before. They mostly have a 'previously, everything used to be better'-attitude. There is a lack of openness towards change as change is always conceived as something negative. Moreover, attitudes are rather reactive than proactive. I would like them to come up with own propositions more often. (Food 1)

If I could change something, it would be the employee representatives' openness towards change and innovative solutions. Don't get me wrong—change is still possible, but it takes an enormous amount of time. For instance, it took us 4 years to change some work regulations and about 2 years to introduce flexible working times.' (Energy 1)

These three previous quotes stress the potential problems related to the lacking openness for change, but in a different sense. Manufacturing 1 demands employee representatives to keep changes in the company-external environment in mind when coming together to negotiate. Food 1 desires employee representatives to be more proactive in the sense of putting more own proposals on the bargaining table. In contrast, Energy 1 rather stresses the time-consuming character of contemporary social dialogue. Here, change refers more to increasing the efficiency of processes. However and in the context of the sometimes high complexity of change and related proposals, several HR managers advocate for giving enough time to employee representatives and for regularly providing explanations on the need of change as stated by the HR manager of Bank 1:

You cannot expect unions to understand the strategic movements of the company and economy if you don't, slowly, get them into the story line. (Bank 1)

Another issue that was pointed out in three interviews was the principled attitudes of employee representatives, as stated by Bank 2's HR manager:

It would be easier if they were not that principled in their opinions, and more open to find creative and innovative solutions. (Bank 2)

A lack of openness towards change and linked to this, innovative solutions, can prove to be disadvantageous for employer. This happened during the global financial and economic crisis in Food 2, as stated by the HR manager:

In 2012, we had 12 weeks without production activity here. Normally, we could have sent our staff home on temporary unemployment. However, instead of doing that, we spent 150,000 € to train our workforce about 9000 h long. Unfortunately, trade unions did not perceive this as an investment and therefore, did not engage in promoting the training actions. For them, training was obviously not perceived as a benefit, but as an extra duty. This is a pity. (Food 2)

This exemplifies that being open to innovative and creative solutions can also benefit the workforce. However, the fact that training was not perceived as an investment but rather as a duty is not something that solely the employee representatives can be considered responsible for.

It may be remarkable to note that attitudes are not everywhere seen as problematic by management. They are positively evaluated in the three universities, but also in Manufacturing 2, as stated by the HR manager:

Employee representatives have a positive, but also critical attitude. Positive in the sense that they are always open for dialogue and with critical, I refer to the fact that they always critically reflect upon management proposals. Thus, we have a healthy relationship. (Manufacturing 2)

Thus, Manufacturing 2's HR management highly appreciates the openness to talk about everything on the bargaining table. No matter if a proposal is made by management or the union, this openness in terms of attitudes adds value and contributes to enhance social dialogue. The HR manager of Bank 1 stresses that especially cooperative attitudes are important for company level social dialogue. This is due to the fact that cooperation can come along with a higher level of influence for employee representatives:

We want to cooperate and with a cooperative attitude employee representatives can gain influence. (Bank 1)

Overall, this stresses the variation between different companies in terms of attitudes—they are evaluated positively in higher education and Manufacturing 2, while the other investigated companies perceive them as rather problematic.

2.2.5 Relationship Among Different Trade Unions

HR managers indicate that the presence of different unions in the workplace level can cause disagreements. Specifically, it can happen that the different union fractions have diverging opinions and it rarely happens that different opinions exist within one fraction. The HR manager of Manufacturing 1 states in this respect:

One of our problems refers to the relation between different unions and their political attitudes. Although they should in principle have similar goals, we have seen several cases in which one of the big unions in the country agreed to a management proposal, while the other one disagreed, just to distinguish itself from the others. (Manufacturing 2)

The HR managers of Energy 1 and Food 1 report similar incidents. However, they add to this by highlighting differences between Belgium's three principal regions. While social dialogue in Flanders is mostly described as constructive and consensus-oriented, it seems to be more conflict-driven in Wallonia. The regional differences in social dialogue in Belgium arguably increase the subject's complexity. If the different union fractions altogether do not agree to a proposal, the HR management can still realize it based on the agreement of only one union fraction. Although most of the interviewed managers stress the ambition to convince all unions to agree to a proposal, they report that proposals had been implemented with only one fraction being in favor of it. Bank 2's HR manager states:

They [different union fractions] don't trust each other anymore and that complicates everything. (Bank 2)

Following Bank 2's HR manager, however, the reason for the evolving problems is the lack of trust between the different and distinctive union fractions and management, and not the difference in union fractions per se. Overall, and as a reaction, the

HR managers in almost all of the investigated companies try to informally talk to the opinion leaders of each fraction before engaging in official negotiations in order to come up with compromises.

2.3 Perceptions of Human Resources Managers on Employee Representatives. Results of the Survey

The results illustrated in Fig. 2.1 are based on a survey of 614 European HR managers from 11 different European countries. The approach taken incorporates the answers of the 65 Belgian respondents and compares them to those of the other European HR managers in order to grasp similarities and differences. The statistically significant differences are highlighted with circles in Fig. 2.1. Generally, the low number of responses creates limitations in terms of data validity and reliability. Given the constraints imposed by the data, the quantitative and qualitative results are triangulated in order to increase the validity of the research findings.

The results show that the Belgian scores are significantly different from the European average in six cases, thereby scoring higher in four of them.

The *competencies of employee representatives* are slightly below the European average according to the survey results (M=2.47 for Europe and M=2.23 for Belgium). Competencies are measured referring to human resources management, establishing and maintaining relationships with management, labor law, social

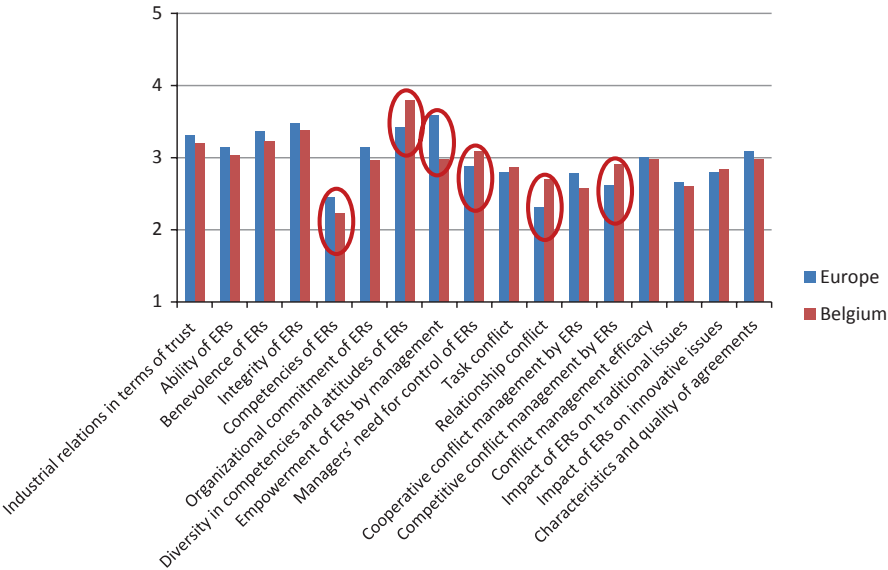


Fig. 2.1. Mean scores of the main variables for Belgian and European HR managers

skills, business and management, negotiation and conflict management, organizational change and business mergers, stress management and managing complex information (on strategy and change). The result is surprising, as it contradicts the findings of the qualitative study. Specifically, a vast majority of respondents in the qualitative study emphasized their satisfaction with the employee representatives' competences, whereas this seems to be different in the quantitative study.

The contradiction remains when looking at the following variable, *diversity in competences and attitudes of employee representatives*, measured by the item 'I see large differences between the employee representatives in my organization in terms of competencies and attitudes'. There is a significant difference between Belgium scoring comparatively higher than the European average ($M=3.38$ for Europe and $M=3.82$ for Belgium). This highlights the fact that Belgian employee representatives are equipped with the necessary competences in order to shape company level social dialogue. In other words, while the survey respondents view the competences of Belgian employee representatives below the European average, they perceive large differences between ERs in terms of competences. Besides, the qualitative research results point to the satisfaction of HR managers in terms of the employee representatives' competences. This makes clear that they overlap with the results of the 'diversity in competences and attitudes of employee representatives' variable.

In terms of *empowerment of employee representatives by management*, Belgium scores below the European average ($M=2.95$ vs $M=3.61$), which is linked to the item "I support employee representatives in terms of their influence over issues that are important to the organization". This suggests that in other countries, employee representatives receive comparably more support from management to execute their tasks. Furthermore, the Belgian *managers' need for control* exceeds the European average score ($M=3.12$ vs $M=2.86$). This variable is measured based on the item "I prefer to keep an eye on what the employee representatives are doing". Linking this with the qualitative research results, this could point to the mostly 'heavy' structures of employee representation, which result in a high coordination need. Considering the items *empowerment of employee representatives by management* and *manager's need for control* in an integrated way could point to the fact that employee representatives are hardly empowered by the HR management, as the managers prefer to centralize control in their own hands. In terms of *relationship conflict*, Belgium slightly exceeds the European average ($M=2.29$) with its score ($M=2.60$). The variable itself refers to the amount of personal conflict and friction between management and employee representatives. This quantitative finding suggests that the level of relationship conflict in Belgium is higher than in other European countries. It is remarkable that even though the personal relationship between management and the employee representatives indicates more conflict than the European average, the level of *task conflict* is similar to other European countries. This last result is in line with qualitative findings indicating rather low levels of conflict in company level social dialogue. This is also in line with recent studies on Belgian industrial relations in this respect (i.e. Vandaele 2012). Specifically, the number of strikes and lockouts in the Belgian context are at a historical low. Strikes can be considered as exceptional nowadays in Belgium, as their number has steadily decreased in the

past two decades. However, they are more ‘visible’, as the vast majority of strikes takes place in the transport sector, coming along with the fact that they impact on a high number of people. ‘Wild’ strikes happen only rarely, as most strike action follows the normal procedures and is therefore predictable. Finally, the majority of strikes (about 61 % between 1991 and 2010) happen in big companies with more than 1000 staff, and there are hardly any strikes in smaller companies. Generally, decreasing strike rates cannot only be found in Belgium, but overall in Europe.

Belgium also exceeds the European average regarding *competitive conflict management by employee representatives* ($M=2.90$ vs $M=2.59$), referring to the behavior of employee representatives during conflict. In this respect, *competitive conflict management* consists of the items ‘Demand that the other party agrees with their position’, ‘Want the other party to make concessions while not making concessions themselves’, ‘Treat conflict as a win-lose contest’, and ‘Overstate their position to get their way’.

2.4 Suggestions Given by Human Resources Managers to Improve Social Dialogue in Belgium

Although generally being satisfied, especially the qualitative study suggests that Belgian HR managers see potential for improvement in company level social dialogue. The main fields of action are certainly the structures of employee representation at the company level and the attitudes of employee representatives. Structures are generally perceived as too extensive, as in most of the investigated companies, various works councils and other representation bodies exist. This increases the level of complexity and makes coordination difficult and time-consuming within a market economy where responses to the external environment need to be rapid. Furthermore, the mostly historically grown structures are difficult to dismantle. This links to the second field of action, namely the employee representatives’ attitudes which are sometimes described as not open towards change. According to the conducted interviews, advancing in terms of structure and attitudes could contribute to improving company level social dialogue in Belgium. These are certainly the major issues among a few minor aspects. The HR managers’ main suggestions for improvement are summarized below:

1. **Structure of employee representation.** Simplifying the complex structures of employee representation at the organizational level is desired by a majority of the interviewed HR managers. Accordingly, there are too many different bodies of representation which make the daily work between management and employee representation difficult. Moreover, these structures demand a high level of coordination. Thus, a lot of time is invested in coordination-related tasks, which could better be used for the actual work of company level representation bodies. However, simplifying the companies’ complex structures of employee representation mostly means to change from extensive to ‘leaner’ structures, which probably comes along with a downsizing of the number of representation bodies and consequently, the number

of representatives. Specifically, possible solutions proposed by the HR managers include having one national works council instead of having one per plant or division. However, this only makes sense in some cases, because plants or divisions could be quite diverse. In this case, it might be advantageous to keep separate works councils in order to represent the specific reality of the plant/division. Another possibility considered by HR managers might be merging union delegations that are so far separated by workers, employees and sometimes, executives. Simplifying structures would certainly decrease the amount of coordination, but also costs for the organizations. Yet, employee representatives are worried about such suggestions as they want to assure strong representation bodies at the level of the company. Therefore, management widely uses informal communication prior to officially starting to negotiate in order to circumvent the 'heavy' structures and come up with possible solutions beforehand. Energy 1's HR manager states in this respect:

In informal meetings, employee representatives are more likely to show understanding for topics that would be very difficult to put on the table in formal meetings. (Energy 1)

Food 1's manager even sees good long-term prospects of the 'informal contact'-strategy:

Our informal relationship is certainly better than the formal one. Therefore, I try to actively engage in these informal relationships with the employee representatives as I am convinced that in the long-run, this will also enhance our formal relationship. (Food 1)

Related to that, many of the investigated companies use working groups consisting of employer and employee representatives to overcome potential conflicts prior to negotiations. Moreover, members of the working groups are mostly selected based on expertise, which means that everyone on the table should in principal have sound knowledge about the topic: This arguably facilitates discussions and probably, leads to good outcomes.

Thus, although many of the interviewed HR managers would like more comprehensive and less 'heavy' structures of employee representation, they developed strategies to deal with them. Especially informal communication and building up working groups prior to official negotiations is positively evaluated by a majority of HR managers, as possible conflicts can already be solved among a few people and do not need to be tackled in the 'official' representation bodies with numerous members anymore.

2. Employee representatives' attitudes. In terms of attitudes, the HR management particularly desires a higher degree of openness towards change. A number of HR managers describe attitudes as rigid—this is perceived as problem, especially due to the fact that most of the investigated companies are situated in a highly dynamic environment with constant changes, e.g. in terms of competition. In the view of the HR management, the continuous need to adapt to the external environment can hardly be aligned with the current attitudes of employee representatives. However, management generally does not want to take responsibility in this regard, e.g. by offering trainings. The only exception in this respect is the higher education sector, as stated by the HR manager of University 3:

Training and education for employee representatives is provided by the university. We also take time to regularly clarify difficult files in order to empower them to take decisions. However, this is a tricky issue. It requires a trustworthy climate, otherwise it is perceived as manipulation. (University 3)

According to the HR management in the other investigated sectors, trade unions need to take this task over and change their trainings in order to increase the openness towards more innovative solutions. Following the HR management, trade unions need to empower their company level representatives in order to find good compromises at the company level. Instead of promoting resistance based on the respective ideology, they should rather focus on how to handle change in a good way, be more flexible and also take the respective situation of the company into account. Manufacturing 2's HR manager makes his expectations clear:

We demand from the unions to make sure that they arrange trainings for their representatives in order to be able to cooperate more efficiently. If we see that employee representatives do not perform in a satisfactory way, we ask the unions to replace those people. (Manufacturing 2)

In contrast to attitudes, skills and competencies of employee representatives are not perceived as problematic by the HR managers. In contrast, they are widely evaluated in a positive way.

3. Trustful relationship. Trust is considered an essential precondition for a valuable social dialogue by the interviewed HR managers. They stress the need of regular (in-)formal contact with employee representatives to establish trust among the different parties. Manufacturing 2's HR manager points out:

For our plant, it is of crucial importance to ensure high levels of flexibility and a good climate of social relations in order to win company-internal biddings. Therefore, we foster long-term relationships with our employee representatives. (Manufacturing 2)

Therefore, trust is associated with long tenures of employee representatives in Manufacturing 2. Two other companies report that in order to improve the relationship and establish trust, there is a team activity for both management and employee representatives once a year. The HR manager of Food 2 states in this respect:

In order to keep good and trustworthy social relations, we—management and employee representatives together—go on a trip once a year, e.g. to visit one of our plants abroad. For us, it is important to view employee representatives not only in their function, but also human beings with a personal background. (Food 2)

Two other companies also stress the value of such activities, however, due to financial constraints, they had to be abolished. Furthermore, transparency is seen as crucial in order to increase trust between management and employee representatives. However, 'unpopular' decisions harm trustful relations, especially if a company faces difficult economic conditions, like Manufacturing 1.

4. Strikes and social actions. Several HR managers point out that the willingness to organize social action and participate in national action days among employee representatives is problematic. However, in the investigated companies, the willingness to strike only very rarely results in real strikes, as stated by the HR manager of Manufacturing 1:

Employee representatives are not too inclined to really go on strike. They are aware of the fact that this would put our company in an even more difficult situation. (Manufacturing 1)

Especially the companies with production activities report similar patterns: the willingness to strike is only rarely translated into real strike action. Thus, strike threats are utilized by the employee representatives, but mostly, solutions are found without actually going on strike.

Besides, a minority of HR managers view ‘national action days’ as a burden, since the workforce normally participates although there is not necessarily a link to the company. HR managers would like to see more innovative and creative solutions in this respect. According to the HR management, there are ways to avoid participating in such national action days and it is important to find solutions to do so. Food 2’s HR manager reports:

Taking part in national action days means high costs for us, although the strike is mostly not related to the company at all. This should be evitable and we proved twice that it can work. However, we had to engage in concession bargaining and that is unhealthy. (Food 2)

Specifically, by offering a permanent contract to a fixed-term worker, the company could avoid the workforce’s participation in a national action day. This is seen as an example of a possible solution to overcome the workforce’s participation in national action days by management. However, this perception might look a bit naïve because it is purely based on short-term advantages that management offers to the workforce. This is due to the fact that the ‘solution’ was not negotiated in a trustworthy way and therefore, its sustainability can be doubted.

5. Professional background of employee representatives. Based on the interviews, HR management prefers to dialogue with white- rather than blue-collar representatives. It might be argued that this reflects the more contested relationship between employers and employees in sectors with production-activity rather than in services. Following the HR manager of Food 1, it is important to state that social dialogue for different groups of workers also depends on the topic on the bargaining agenda:

Social dialogue has to focus on the ‘weakest group’ in terms of explanations and therefore, a sound didactic approach is required. It is not per se the workers who need such explanations—for instance, if it is about a technical problem in our production, then the employees and managers are in need of clarification. So it depends very much on the topic we talk about. (Food 1)

This emphasizes that social dialogue is highly contingent upon the topic under investigation, but also upon the nature of the sector (production vs. service). Finally, it is important to point out that European initiatives to promote social dialogue are hardly known among HR managers. Consequently, they do not make use of the institutional resources granted by the European Level. HR managers are aware of European Works Councils (EWC), however, most of the interviewed HR managers do not see added value in this institution. They point out that information is not spread and cascaded down after EWC meetings. As a result, the work of the EWC is mostly not visible to both management and the workforce.

2.5 Discussion and Expectations of Belgian Human Resources Managers on Employee Representatives' Roles, Attitudes and Competences

The Belgian system of industrial relations is highly institutionalized, rather stable over time and characterized by a high level of bargaining coordination and centralization (see Sect. 1). Company level social dialogue is embedded in this framework, which opens up space for cooperation within certain limits. Although the company level actors have discretion on various issues, they are generally bound to the agreements set on higher levels. Derogation is mostly impossible and this means that company level social dialogue can only improve the standards granted by higher levels. Overall, our study shows that Belgian HR managers are satisfied with company level social dialogue across all sectors. Even the two companies in crisis in which social dialogue is agitated at the very moment do not put the system fundamentally in question.

According to the qualitative part of this study, the within-country variation in the Belgian company level social dialogue is high. This variation principally stems from two different sources. Firstly, we observe differences in the various sectors under investigation. Based on our sample, the production-oriented sectors feature more conflict-driven social relations in comparison to the more consensus-oriented service sector. This also links with the nature of the workforce (blue-collar vs. white-collar) and the developments within the different sectors in the last decades as mentioned before. Secondly, Belgium's strong regional dimension (Brussels, Flanders and Wallonia) causes variation, too. The interviewed HR managers widely describe company level social dialogue in Flanders to be more consensus-oriented, while it is portrayed to be rather conflict-driven in Wallonia. The variation based on sectors and regions is likely to add to the complexity of social dialogue in Belgium. The interviewed HR managers associate two challenges in this respect: On the one hand, they point out that the structure of company level social dialogue could be simplified. However, this is difficult in practice, particularly because of the country's different regions. On the other hand, some HR managers perceive the attitudes of employee representatives as problematic in certain cases. According to management, employee representatives sometimes lack a sense of openness for change in order to come up with creative, innovative solutions in company level social dialogue.

In general, this study does not attempt to generalize; it rather draws conclusions about the cases selected for the qualitative part of this research project. Thus, particularization and not generalization is the first and foremost aim of the presented study. In order to draw more general conclusions about the view of HR managers on social dialogue in Belgium, further research is required, such as a large-scale quantitative survey with a satisfactory response rate.

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Chapter 3

Employee Representatives in Denmark. How Employers see them and what they Expect

Søren Viemose and Hans Jørgen Limborg

3.1 Historical Context of the Labor Movement in Denmark

The Danish labor market is only partially affected by the crisis, as a number of other societal changes have a strong influence on labor relations and the framework of cooperation and agreements. Industrial production has undergone vast downsizing, due to outsourcing of labor intensive production such as the garment industry and machine production. Even abattoirs and meat processing are being widely outsourced to Poland and Germany. The public sector has seen an extensive reduction of services and reduction in manpower in the municipalities and in the health sector.

With regards to the labor market this development is influencing the power balance, but has not radically changed the way in which the social partners agree to regulate wages and working conditions, although the results of bargaining have been very meager from the unions' point of view.

Another tendency will probably prove to have a greater impact on the labor market. Within the last 4–5 years the public employers have strived to reduce the power of the central agreements. In 2012 nurses were in a long conflict on wages, which they more or less lost, and in 2013 the public school teachers lost a conflict—teachers were met with a 'lock-out' from the association of municipalities, and were off work for almost 6 weeks. The conflict resulted in the abolition of the teachers unions right to negotiate working hours on a central level. Instead, the school leaders' rights to define work hours and tasks for the individual teacher were abandoned by a government act to settle the conflict.

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M. Euwema et al. (eds.), *Promoting Social Dialogue in European Organizations*, Industrial Relations & Conflict Management 1, DOI 10.1007/978-3-319-08605-7_3

These may seem as rather ordinary incidents, they are however radical in a Danish context, because of the long tradition of central agreements, conflict resolution and local negotiating between employee representatives and employers. Historically, labor market issues have been settled between social partners. Government regulation of the labor market is relatively low in Denmark compared to other European countries.

This Danish labor market system dates back to the so-called 1899 September compromise (Due and Madsen 1994). Wages and working conditions—including working hours, maternity leave, flexibility schemes and lately supplementary pension schemes and continuous training—are settled in collective agreements negotiated by the social partners. Traditionally, many of these subjects were mainly negotiated centrally. Increasingly over the last 20 years, bargaining is taking place at workplace level, but under broad framework agreements which guarantee some minimum requirements. Issues such as holidays and paternity leave are determined at central level. As many as 75% of Danish employees are said to be covered by collective agreements (Rogaczewska et al. 2004). There is however some dispute regarding private workplaces, the proposals of the percentage are ranking from 52 to 77% (Due and Madsen 2008; Gill et al. 1997; Scheuer 2007). The tendency is however a decline in union density, especially among young people, a development that may threaten the collective bargaining.

The level of employee involvement in terms of co-influence, co-determination and day-to-day cooperation is regulated by the Cooperation Agreement (*Samarbejdsaftalen*) and not by legislation. Co-determination can be defined as ‘an obligation for both parties to strive for agreement’, while co-influence can be described as ‘timely consultation’ (D’Art 1992). The first cooperation agreement was made between social partners at the central level in 1947 and has been subject to some revisions since. The agreement specifies terms for day-to-day cooperation and information through a cooperation committee about the development of the company, the financial position, technology changes, restructuring, etc... It specifies that management must consult employee representatives on these issues. But basically, management does not have to provide co-determination, but can go for the lowest level of cooperation stipulated, which would be just to provide information on development and decided changes. Co-determination is therefore generally established on employee request.

Denmark has two parallel representation systems. The shop steward is elected among the employees who belong to his or hers union. This will generally mean everybody with the same training or education. A workplace can thus have several shop stewards i.e. in a hospital you can have up to 50 different agreements and shop stewards. In such a case a general shop steward is appointed by the unions. The shop steward is responsible for negotiating local agreements and working conditions. The shop steward will also have a seat in the works council.

An important exception is the regulation of occupational health and safety. Cooperation between employer and workers is mandatory in this field, as most of the regulation is based on legislation given by the Work Environment Act of 1977. The regulation includes a compulsory safety organization for any company with more

than 10 employees, and further an organization in at least two levels if more than 35 employees. What makes the Danish OHS regulation important in relation to cooperation is that it states that the social and organizational issues are equally important to those of hazardous chemicals, noise and ergonomic exposures. As a result of this, Safety Representatives and Employee Representatives (ER) have to cooperate with management on how mental health problems, and for example work related stress, can be prevented. A cooperation that can be challenging, because the Safety Representative is elected among all workers and thus can be a non-unionized colleague, in contrast to the ER who is elected among members of the same union.

In the early 1990s, Danish policymakers established a fiscal policy aimed at breaking the unemployment trend of the time and was further coupled to the first active labor market policy (ALMP) of 1994 which sought to reduce structural unemployment. Although some believed that the natural unemployment rate had simply increased, the Danish government sought to improve the situation by implementing what came to be called the flexicurity model. The policy shift thus came about with the 1994 and 1996 labor market reforms, when the introduction of flexibility was linked to security through the continued provision of generous welfare schemes as well as the ‘activation’ of the labor force through a set of ALMPs (Björklund 2000). Activation in Denmark is regarded as “a societal right and an obligation” (Jørgensen 2000). This takes some of the social pressure of the company level responsibility for workers who are to be sacked. However unemployment benefits and training provision make this system place a higher burden of taxation upon the higher-earning members of the Danish society. This is leading to a pressure on the unions from neoliberal policymakers and a threat of taking over members from a new rise to “unions” who are not part of the labor movement. Denmark currently has high taxation rates (Anderson 2009; Andersen and Mailand 2005), which in part pay for social benefits that may seem generous compared to other European countries. Flexicurity may thus favor low- to middle-income earners. However, this might partially be offset by Denmark’s high-output growth, which is coupled to low unemployment figures (2.8% in 2008) and similarly low social-exclusion rates (Statistics Denmark 2014). As a more special feature it can be added that Danes in recent years have been consistently ranked as the happiest nation on earth, which has in part been attributed to aspects of Denmark’s flexicurity model (Sherman 2009).

3.2 The Current Situation of Employee Representatives. What do Employers Say?

In this section we will focus upon the most relevant indicators pointed out by the employers in the interviews regarding the profile of the ERs. We support each of these with quotes from the interviews. Our respondents were very reflective and well formulated, thus we think that they account for the many facets of cooperation in the workplace quite well.

3.2.1 ‘The Formal Structure is Perceived as Far too Rigid’

Several of the respondents pointed out that the formal structure of the cooperation system creates a gap between the side of A and the side of B, as one of the respondents puts it:

It is a somewhat rigid structure. In the general cooperation committee one is reminded of the division in an A and a B side. In daily life one tends to forget it. The cooperation system needs to develop into the next generation, there are some hurdles. They are bounded by the many rules which create rigidity. (Manager of a public university)

The managers from the finance and the production sector are also struggling with the national focus which is embedded in the structure, since some of the companies have become Nordic (Scandinavian countries) or international, or if they have not, they still need to play in the international field. This makes the national structure of the cooperation structure a hindrance to involve their employees. To a respondent from the finance sector it makes no sense at all:

It is a bit cumbersome that there has to be a national cooperation committee. Why is it not possible to create a more Nordic structure with structures of cooperation across country boundaries, so it responds to the condition, that in the bank things have gone from national independent banking businesses to a single large joint Nordic business? (Manager from a bank)

A few of the workplaces stand out as successful in creating a close cooperation and the key seems to be to pair the formal meetings with frequent informal meetings and day to day contact, as they do in the following example:

The senior employee representatives meet with the respondent every fortnight and apart from that they meet at other meetings and are in frequent mail contact too. They meet the top management four times a year formally to preparation meetings, and also three times a year informally. (Manager from education)

3.2.2 ‘There is a Need for More Professionalism’

The core of the issue is how to collaborate with the ERs on even terms. All respondents formulate that they wish for a professional attitude from the ERs. To most this means focusing on the interest of the business, but not necessarily at the cost of the employee's rights and interests. The following respondent feels that ‘old union rhetoric’ is hindering the cooperation:

Why isn't it possible for ERs to think along the lines of the business when pursuing the needs of the members? Business interests aren't necessarily in opposition to the interests of the employees. It seems outdated to hold on to old union rhetoric and A-B side thinking, when we live in a time, where more and more employees are highly specialized with co-leadership tasks, and where there is a greater need for strengthening the cooperation, than the battle rhetoric. (Manager from finance)

In a few of the workplaces they seem to have found the balance and again the key, according to our respondent, is informal dialogue:

They can become surrogate managers with the right support, but it requires a continuous and informal dialogue. If you have that they can appreciate the management's views and perspectives and the other way around. We share a common aim and understand that both parts need to get something to take back to their group, in order to retain their legitimacy. (Manager from education)

To collaborate on even terms thus requires a shared understanding but, as a respondent point out, also the right qualifications:

I would like a stronger business orientation in the advice from the trade unions. That would improve the ER's qualifications for inclusion in the strategic discussions. (Manager from manufacturing)

3.2.3 'ER's Lack the Competencies Needed to Engage in Development'

The competencies the employers ask for are mainly communication, negotiation and argumentation skills. They argue that the ERs could have more influence than they currently have, if their proposal were more business oriented and holistic, but first and foremost well prepared. This respondent states the problem clearly:

The ERs do not think holistically about the problem and therefore they do not get the influence they could get. It stems from the problem of lack of competences. (Manager from manufacturing)

But again we see that some workplaces have better experiences. In the following example the respondent explains that the former CEO taught the ERs to prepare their propositions well before raising them in the committee and that effort is paying off, for the good of both parts:

In the cooperation committee (Works Council) the ERs are good at presenting thorough proposals, they learnt it the hard way from the former CEO. He required well prepared and thorough proposals. (Manager from manufacturing)

There seems to be a general agreement that it is the unions' obligation to develop the competencies of their ERs, but many state that they are not doing it well enough. Some feel that it would be beyond their mandate to educate the ERs; others that it is the easiest, that way they can also direct the competencies towards the business. The following respondent has not yet made up her mind:

We are discussing if it is our business to develop the competences of their ERs, or if it the unions'. During the staff reduction period we held sessions for the ERs with external consultants, to teach them how to help their colleagues and take part in the talks, with good results, so we are considering offering competence development courses. (Manager from education)

3.2.4 ‘The Unions are Behind in the Perception of the Real Challenges’

The managers from the finance and the production sector seem to be the unhappy with the unions, as in the following example:

The traditional trade union perspective does not match our effort to maintain the production work in Denmark. The ERs are advised to stick to dogmas about working hours and working time arrangements and that makes it hard to get flexibility. The lack of flexibility means that we have to hire and fire more than necessary. ERs are, in my view, advised against the company's interests and thus also against the interest of maintaining production jobs in Denmark. (Manager from manufacturing)

It is however a question if this manager is aware that the ERs need to represent the employees, even if they might be behind too. In a recent case from butchery, the ERs negotiated a cut in wages in return for keeping their workplace in Denmark, but the agreement was turned down from the employees when they voted. The ERs in that case thus were out of sync with their base. In another case from the retail case however, the employees accepted a similar agreement. It is not a clear picture among the respondents, thus the following respondent who is also in the production sector feels that the Unions are more pragmatic than the ERs:

The unions advance further than the ERs. They are well aware that if we go out and rationalize or close down parts of the operations, then it's sensible with regards to the total operations. (Manager from manufacturing)

3.2.5 ‘It is Unclear Who They Represent and on What Mandate’

The respondents from the finance and the production sectors pointed out that the ERs are losing their base, but the tendency was not prevalent in the education sector.

In the finance sector the problem was mainly that academics are taking over from bankers, but the bankers union is the one to make the agreement still, as this respondent explains:

I find it problematic that employee representatives cover less and less of the actual employees. There are more and more academics, but as mentioned before, they aren't covered by Finansforbundet (The Union of Financial workers). The members of that group are dying out. (Manager from finance)

In the production sector it does not seem to be one specific group that has the problem, but the fact that still more people are not members of a union, or if they are it is the wrong one:

I would also like to see an end to the trade union's silo-thinking. If you do not belong to the right union they will not lift a finger. It does, on one hand, make sense, but on the other hand, I miss some innovation. The platform they used to have has changed. One can represent more broadly than they do. (HR manager from manufacturing)

Another issue regarding the representation of the ERs was raised by a manager from the production sector. The normal custom is to compensate the ERs with a certain percentage or fully, to give them time for their ER tasks, but apparently the ones who are fully compensated risk getting out of touch with the reality of his or her colleagues:

I think we have an outdated and failed system with the 'bought out' ERs. We have created a system where we have ERs who are not part of the daily operation and it is a great deficiency. They become detached from reality when they are not part of the production. And there may be too many ERs as well. They will stick to particular interests and local conditions and thus we cannot elevate the perspective and focus on the common issues. (Manager from manufacturing)

3.2.6 *There is a Lack of Trust*

The issue of trust is of course at the core of the ERs' task, but it is a concept with various layers and the answers we got reflect this. The basic requirement for trust is that confidentiality is respected. All managers responded that they trust the ERs regarding confidentiality, except one:

We recently had an example, where two employee representatives on the board couldn't keep their cards close with regards to sensitive information about a competitor. They wrote to some colleagues about the information, after having been told in the board, that the information was confidential and not supposed to leave the room. (Manager from manufacturing)

But the general picture is that the confidentiality is respected. But confidentiality is not sufficient. As a respondent explains:

It is subjective. For confidentiality is a 10 (top level). Nothing is revealed that has been given as confidential information. There is also great confidence in all parts to respect agreements. That we can reach an agreement that will hold is also a 10. However, if we talk about confidence in the business insight, then it is lower. My confidence in their understanding of our burning platform is small. (Manager from manufacturing)

To fully trust an ER enough to include him or her in the strategic discussions they need more than confidentiality. In the production and the finance sectors they call for business insight as in the example above. In the education sector they call it to have a common aim:

The old fashioned employee representative who is driven by distrust and advocates single cases will not do. There need to be trust and a common aim and understanding. (Manager from education)

3.2.7 *EU Policies*

Regarding the EU policies on labor relations, labor market regulation and occupational health and safety among others, there are no differences among the sectors; there is a general lack of knowledge on these policies among all of them. It relates

to a general low perception of the importance of EU legislation for Danish labor market conditions. The common belief even among managers is that in Denmark the social partners and the national authorities share the responsibility for regulation and enforcement.

In general we see that the main division is not between sectors, in all sectors we have heard about positive and negative examples. The division seems between the workplaces that have been able to create trusting relations and the ones that for various reasons have not—across sectors.

3.3 Perceptions of Employers on ERs. Results of the Survey

Results are presented based on the survey among 90 Danish Managers and HR managers of different sectors, compared to the score of 614 Managers and HR managers from 11 other countries in Europe. *T* tests were conducted to analyze differences between the Danish results and results of the rest of European participants in this study. The significant differences have been circled.

In Fig. 3.1 the graph illustrate each variable’s mean comparison between Europe and Denmark. These results suggest that HR managers’ perception of *industrial relations in terms of trust* is higher in Denmark (M=3.76) than in Europe (M=3.31). The *ability* of ERs is perceived as higher in the Danish sample (M=3.50) compared

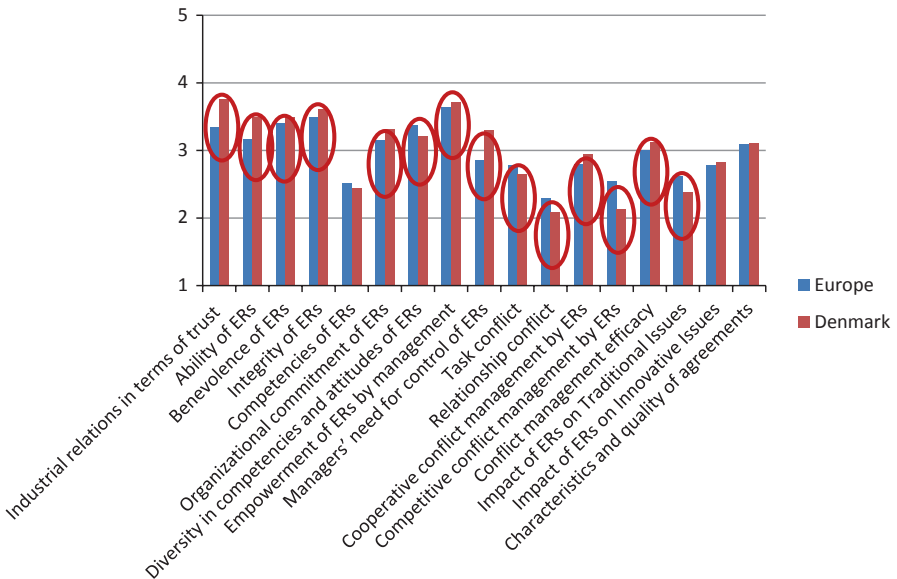


Fig. 3.1 Mean scores of main variables for Danish and European managers and HR managers

to Europe ($M=3.14$). Additionally, the *organizational commitment* of ERs is perceived as more positive in Denmark ($M=3.31$ versus $M=3.16$). *Diversity in competencies and attitudes* of ERs seems to be lower in Denmark ($M=3.21$) than in Europe ($M=3.38$). *Managers need for control* seems to be higher in Denmark ($M=3.30$ versus $M=2.86$). *Relationship conflicts* are lower in Denmark ($M=2.09$) compared to the rest of Europe ($M=2.29$). *Task conflict* is perceived a little lower in Denmark ($M=2.65$) compared to Europe ($M=2.81$), and also the competitive conflict management by ERs is perceived lower in Denmark ($M=2.13$ versus $M=2.59$). *Impact by ERs on traditional issues* shows a significant lower score in Denmark ($M=2.39$ versus $M=2.65$). No significant differences were found between Danish HR managers and the rest of European HR managers participating in this study for the rest of the variables.

3.4 Suggestions Given by Employers to Improve Social Dialogue in Denmark

The qualitative and quantitative results point out the issues which are considered to be the most important by the HR managers. In some cases the interviews have further revealed other suggestions given by employers, on how they consider the social dialogue in Denmark should be improved.

The statistical results do not have a very high statistical power, but in combination with the qualitative results they indicate that HR managers in Denmark regard social dialogue as essential, but at the same time they call for substantial improvements in ER's role, competencies and attitudes.

3.4.1 Improving ERs' Competences to Analyze and Negotiate

A majority of the managers consider their counterpart as an important and relevant partner in developing the company or the workplace. But they find that many of the ERs do not have a sufficient background for meeting the challenges to develop a sustainable business strategy. We have found different opinions in relation to what kind of competences are needed. A common denominator is that the ERs need to improve their ability to think and act strategic. Basically this means that they should be able to merge the interests of the employees with the interests of the company. Within the production sector and the financial sector managers find that ERs lack understanding of markets conditions, development cost, accounting etc. They would like the ERs to take their point of departure in the situation of the business, which is as an example how to create more jobs, or how to develop a better economy and an improved competitiveness of the company. In the university sector the pressure is not as much market conditions as to live up the economic framework and demands for results and documentation given by the authorities.

3.4.2 Proactive Attitude from the ERs and the Unions (International)

The managers point out that their ‘counterparts’ often seem to lack support and training from their unions, and if they receive it, it is not promoting development and shared goals. Rather it is considered to be stuck in old fashioned ideas of class struggle and conflict strategies. Unions are in general considered very conservative and very much restricted by fighting for a “local” conception of member rights. HR managers propose to broaden their view on development. Further they want them to be able to work across borders with other unions, when supporting ERs in transnational companies (especially within the financial and the production sectors)

3.4.3 Unions and ERs Should Leave the Conflicting Attitude

The managers recognize that ERs are required to ensure that the employees are given acceptable working conditions and wages. As well as the managements prime task is to develop the company’s market strength and value. Among them they like to see this as an opportunity to find a common goal for the company or the workplace to work for the best of all. Thus, they propose to the unions and to the individual ERs to rethink their approach, and to think of negotiations as a way to find to best way to reach a common aim, and not as a conflict-situation in which each part aims to win at the highest possible cost of the opponent.

3.5 Discussion on Expectations of Danish Employers on ERs’ Roles, Attitudes and Competences

The interviews and the survey data indicate that the development in Denmark represents a continuously developing labor market, characterized by a very high level of trust between employers and employees on company level. Regulation through negotiation and conflict resolution through the labor market institutions, including the National Arbitrating Institution and the Court of Labor Law, is a long well-functioning and well established tradition in Denmark. The employers are confident that the institutionalized mediation and conflict resolution is fair and most importantly, it works very swiftly. Furthermore, they generally accept the fact that trust and co-operation are essential to improve productivity and that that is the strength of a “modern” business strategy. The importance of the concept of social capital—in Denmark defined as trust, justice and skills of cooperation—as a prerequisite for a healthy business development has also been widely accepted among employers in both the private and public sector.

On the other hand the employers have a general critic of their counterparts from the unions. They find that their ability to develop trust is restricted by old fashioned

thinking and institutions. HR managers in general perceive the union's approach to the structure and role of ERs is very conservative. There is nevertheless a great variation in HR managers' expectations of ERs' competencies and attitudes, both between organizations and within the same organization. The unions are in several cases described as being slow, counterproductive and non-innovative. In particular, they are criticized for not cooperating in regard of acting proactive in the current situation with a financial crisis. So even though the trust is high between HR managers and ERs, there is a great need for improvement according to employers. One manager even argues that by not being proactive and going along with a proposed wage reduction in tough times, they jeopardize the interest of their members.

It is interesting that some of the managers express themselves to be more in favor of the compulsory Health and Safety Organization and the elected Safety Representatives than of the Workers Council and the Shop Steward. They argue that the safety representatives represent all workers at the workplace—unionized or not—in comparison to the ERs, who only represent workers from their own profession, and more so only the ones that are unionized. In the production sector and in the public sector it is still a very large fraction, however in the service and financial sectors the percentage of unionized employees is decreasing.

Most of the data in the Danish study were collected at the same time as the Danish public school sector established a lockout of all public school teachers. A part of the public press focused heavily on the low flexibility of the unions. This may have influenced the HR managers in this study to perceive unions more negative than expected. In several interviews the HR managers refer to this conflict when giving examples of the unions' lack of innovative capacity. In general they request a far more comprehensive and integrated approach to development and to labor relations. They refer to this as a lack of ability to see the larger picture and to be stuck with details and formalities, when entering negotiations. Also they point to a lack of competencies among the ERs in relation to communicate and to negotiate broader issues and dilemmas.

HR managers represent a management task and a management level that has seen a substantial growth in Danish workplaces in the recent years. It seemed like some of them consider themselves as 'the way' a contemporary company deals with labor issues. From this perspective they request a similar and corresponding development among the unions; however they risk failing to recognize it. They are in some cases too fast to generalize the failure of the unions as a common trend, without being very specific in their demands for the development they would like to see among unions.

In general the managers were far more specific when they provide examples of positive cooperation with the ERs on a company level. They confirm that there is a high level of trust in the daily cooperation and coordination of tasks. Whereas they find the mandatory institutions inflexible, they refer to the ability to solve problems on the spot through daily contact and partnership between managers and individual ERs, as very positive.

To sum up, HR managers in Denmark have a very broad acceptance of unions and ERs as significant counterparts to secure a motivated and competent workforce. However they wish for the structures of representation to be more flexible and for

the ERs to have better capabilities to integrate their strategies into a common aim, and to have better skills in relation to communication and negotiation.

The current study indicates that the development in Denmark on one hand is moving towards a labor market which is characterized by a very high level of trust between employers and employees on company level, emphasized by the employers generally accepting the fact that trust and cooperation is essential to improve productivity and the strength of a business strategy. The concept of social capital—in Denmark defined as trust, justice and skills of cooperation.

On the other hand the employers have a general critic of their counterparts from the unions. HR managers in general perceive the ERs role as old fashioned. There is a great variation in HR managers' expectations of ER competencies and attitudes, both between organizations and within the same organization. The unions are, as several of the interviews suggests, very often seen as being old fashioned and non-innovative. Several of the managers state that ERs are not cooperating in the sense of perceiving a shared goal, especially the call for the ERs to be more proactive in the current situation with the financial crisis. So even though Denmark can boast that the trust level in general is high between HR managers and ERs there is a great need for improvement. Proposals to fuel such a development covers very practical issues such as performing training programs in a "trio" setting, which means that manager, Shop Stewards and Safety Representatives participate in training and education together in order to achieve a shared knowledge, and to develop negotiation and decision taking skills. But managers also provide broader ideas for the unions to change their approach from demanding rights to collaboration and to cooperate with the employers' associations to lead the way and present a common ground for mutual participation in workplace development.

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Chapter 4

Employee Representatives in Estonia. How are they Perceived and what are the Expectations by Employers?

Mare Teichmann and Merle Lõhmus

4.1 Historical Context of the Labor Movement in Estonia

The Russian Revolution of 1905 was said to be a major factor leading to the Russian October Revolution of 1917. The events of Bloody Sunday triggered a line of protests in Russia and it was also influential in Estonia. So, Estonia's trade union movement began in 1905 with the revolutionary events organized by local left oriented revolutionaries.

In response to workers organizing, the employers organized themselves as well. In 1917 the employers' professional associations (Association of Estonian Manufacturers) were formed in Tallinn and Tartu. The Association of Estonian Manufacturers ceased operations ordered by the Soviet authorities in 1940.

In February 1918, after the collapse of the peace talks between Soviet Russia and the German Empire, the Bolshevik forces retreated to Russia. Between the Russian Red Army's retreat and the arrival of advancing German troops, the Salvation Committee of the Estonian National Council issued the Estonian Declaration of Independence on February 23, 1918. A military invasion by the Red Army followed a few days later, however, marking the beginning of the Estonian War of Independence (1918–1920). In all this chaos and in conditions of Estonian War of Independence, in autumn 1919 the first Estonian Trade Unions congress took place. The congress clearly declared their unwillingness to support an independent Estonian state but congress delegates saw Estonia as a part of the Soviet Russia. On the second day of the Congress, the statements made by anti-independence were denied. In 1931 a new left-oriented trade union center was founded- Tallinn and Harju County Central Council of Trade Unions.

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In 1936 the Estonian government, however, blocked the trade union movement development and created the government-friendly labor movement. In 1938, the “Employee and Associations Act” was introduced. This act allowed establishing a local or national professional association, but only one professional association for each profession, the parallel organizations were not allowed. Political activities and all activities affecting the country’s defense and foreign policy relations were banned.

During World War II the trade union activities were suspended. In 1948 the Estonian SSR Council of Trade Unions was reorganized under subordination of the Soviet Union’s Central Council of Trade Unions. Thus, during the Soviet occupation in Estonia there were no independent trade unions. Trade union activities were rather formal, managed and completely controlled by the Communist party.

In 1989 the Estonian SSR Council of Trade Unions XX Congress announced them as an independent trade union organization. Since 1990, public and private organizations began to form trade unions. After the Soviet period, the employers’ organization was formed in 1991 and in 1995 it was reorganized as the Estonian Employers’ Confederation.

The unions in the past provided the only channel for employees’ representation, but now there is the legal possibility of elected employee representatives (ERs) being in place alongside the union. Main employee representations at the workplace were done through unions, and since 2007 independent ERs can be elected as well¹. The Estonian law provides for both union and works council structures to exist at the workplace at the same time. On the other hand, collective bargaining is a legal privilege and an exclusive right for unions and not of the works council.

When we compare the Estonian unions’ membership rate with other EU countries’ unions’ membership rates, we must admit that the Estonian employees are not highly represented by the union (see Fig. 4.1).

Unions represent only 8.1 % of the Estonian workforce. In other words, the overwhelming majority of employees (91.9 %) are not represented by the unions (OECD Statistics in Fulton 2011). Moreover, like in many EU countries, there’s a continuing downward trend of union membership in Estonia (see Fig. 4.2).

Due to the Estonian trade unions’ history and a low reputation from the Soviet period, both the employees and employers assessing works councils are more democratic and innovative than the unions. Figures also make clear that works councils enjoy a higher popularity in Estonian enterprises than unions (Statistics Estonia 2011). Comparably, 6 % of the Estonian organizations have unions, and twice as many organizations (13.3 %) have works councils.

The 2009 Statistics Estonia survey shows that 32.7 % of employees in organizations employing five or more employees are covered by collective agreements.

¹ Directive 2002/14/EC of the European Parliament and of the Council of 11 March, 2002 establishing a general framework for informing and consulting employees in the European Community—Joint declaration of the European Parliament, the Council and the Commission on employee representation (*Official Journal of the European Communities*, L 080, 23/03/2002, pp. 0029–0034), in 2007 Directive 2002/14/EC adapted in Estonia.

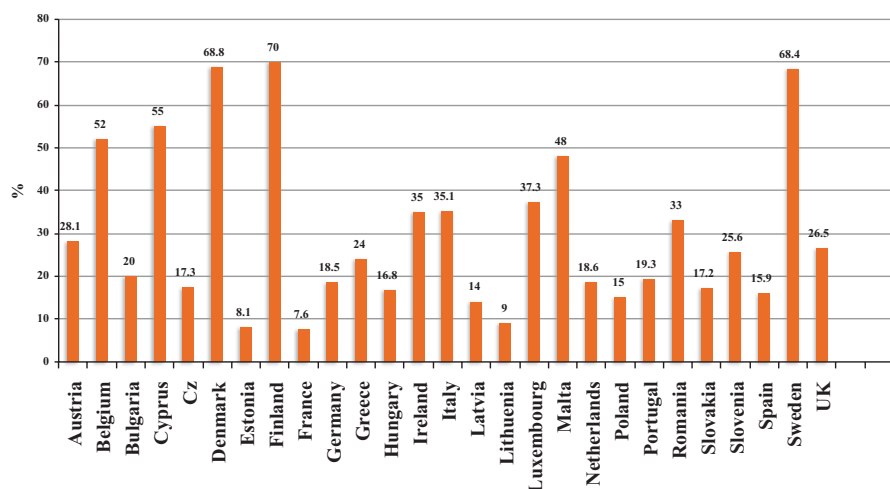


Fig. 4.1 Union's membership in EU countries (Source: OECD Statistics 2013)

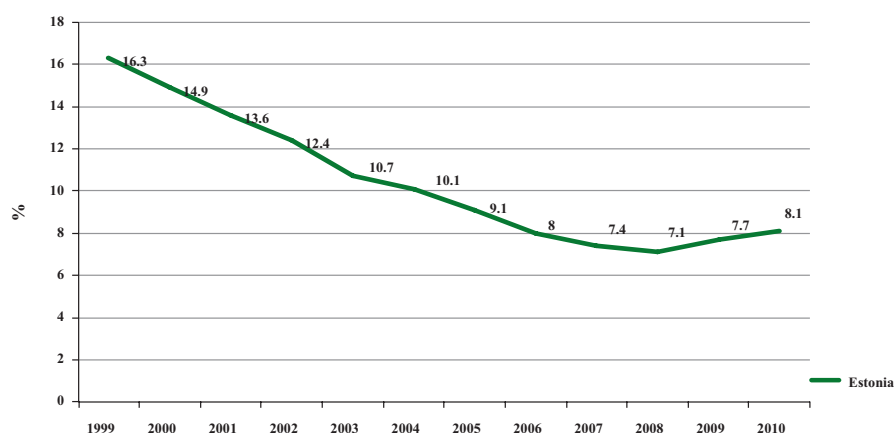


Fig. 4.2 Estonian trade unions membership (Source: OECD Statistics 2013)

However, still the majority of employees are not represented at all, not in unions and nor in the works councils. Thus, working conditions, and in particular pay, are fixed in direct discussions between the employer and the individual worker.

In the next section we summarize the most relevant indicators pointed out by the employers in the interviews regarding the profile of the ERs. In order to better understand these opinions, we start by giving an overview on the structure of the industrial relations system in Estonia.

The main legislative document regulating employment relations in Estonia is the Occupational Health and Safety Act, passed on 16 June 1999. This act states that besides the trade unions there are three kinds of bodies taking care of the working environment and employees' well-being. These bodies are:

1. **The working environment specialist** is an engineer who is competent in the sphere of working environment or any other specialist in an enterprise who has received training concerning the working environment and whom the employer has authorized to perform occupational health and safety duties.

A working environment specialist is a full-time employee and is paid as any other employee for his/her work. Generally speaking, a working environment specialist works under the supervision of the HR manager.

2. **A working environment representative** is a representative elected by employees in occupational health and safety issues, and his or her term of authority is up to four years. In an enterprise which employs 10 employees or more, the employees shall elect one working environment representative from among themselves. If an enterprise employs less than 10 employees, the employer is required to consult with the employees in matters of occupational health and safety.

A working environment representative is an ordinary employee, who performs his/her functions besides his/her ordinary work and is not to be paid for the representation tasks.

3. **A works council** is a body for co-operation between an employer and the ERs, which resolves occupational health and safety issues in the enterprise. In an enterprise with at least 50 employees, a works council shall be set up at the initiative of the employer and it shall comprise an equal number of representatives designated by the employer and representatives elected by the employees. The council shall comprise at least four members and the term of their authority shall be up to four years.

A works council shall:

1. regularly analyze the working conditions in the enterprise, document-developing problems, make proposals to the employer for the resolution thereof and monitor the implementation of adopted resolutions;
2. participate in the preparation of an occupational health and safety development plan of the enterprise, and in the preparation of plans for the reconstruction or repair of the enterprise and for technological innovations in the enterprise, and of other plans;
3. examine the results of the internal control of the working environment in the enterprise and, if necessary, make proposals for the elimination of deficiencies;
4. analyze occupational accidents, occupational diseases and other work-related illnesses, and monitor the implementation of measures for the prevention thereof by the employer;
5. assist in the creation of suitable working conditions and work organization for female employees, minors and disabled employees.

4.2 Current Situation of the ERs. What do Human Resources Managers Say?

In order to examine the role and impact of employee representative bodies on regulation of industrial relations in Estonia, ten interviews with large companies HR top managers were carried out in 2013. Interviews focused on experiences and expectations of Human Resources Managers (HR) on ERs' roles, attitudes and competencies to act as partners in social innovation.

The following conclusions are based on the outcomes of these ten interviews. Respondents were between the age of 25 to 69, nine of them female and one male, with experience from one up to 18 years in companies. Interviews focused on their perception of ERs' role, competences, attitudes and future development needs.

There are six main concerns: need for improvements in employee representatives professionalism, need for more cooperation-oriented attitudes of the employee representatives, need for building up stronger mutual trust, need to rise works council's prestige and need to have better knowledge about EU policies on employment relation issues. These concerns are discussed in detail below.

Need for professionalism There is a general agreement among employers on the need to professionalize the ERs role and training especially on technical competencies.

According to the law, the ERs have to go through the 24-hour training organized by the Labor Inspectorate (the Labor Inspectorate is a government agency operating within the area of government of the Ministry of Social Affairs). The working environment specialist and/or the HR manager give the ERs additional information, if it is needed. If there is a need for additional training in legislative regulations, the company normally will support it by giving free training opportunities to ERs. But—as it has been mentioned by respondents—the lack of knowledge and skills about work environment issues is not the main problem as this is mostly the attitude of ERs. ERs know the requirements to the work environment as well as the current situation in the organization, but they don't act because of the lack of the belief that they can make any changes (low motivation) or there is a deficit in negotiation and conflict resolution skills. Although management knows that the encouragement of ERs is necessary and training in negotiation skills and conflict resolution is needed, mostly management does not take responsibility.

Attitudes of ERs The attitudes of the ERs are problematic. ERs are often disinterested.

To be honest—elections of WC members are superficial; most people don't want to be the representatives and the elected members are not very motivated as employee representatives (HR manager, large manufacturing company).

Additionally, managers perceive a lack of commitment and involvement with the organization's strategy from the ERs' side. The industrial sector is especially concerned about the lack of representation of the overall workforce. According to HR

managers, in this sector the majority of ERs are working for their self-protectionism instead of being more flexible, working on anticipation and prevention of conflicts.

Low mutual trust During the interviews, some uncertainty and skepticism from the side of employers showed up when speaking about mutual trust between management and ERs. In most cases respondents had difficulties to estimate mutual trust.

Estonian managers point out that ERs lack the characteristics that they consider as antecedents for creating a trusting relationship, such as the ability or control of specific competences; benevolence or considering that ERs would do good to the organization; and integrity, or that the ERs adhere to a set of principles that the managers find acceptable such as reliability, fairness, justice and consistency. Especially managers in the industrial sector agree that both ERs and management distrust each other. Some of HR managers indicated that as there have not been visible problems with the trust so far there is no any need for improvements.

There has not been problems with the trust so far. Thus I do not see any need for improvement (HR manager, educational sector).

In other cases improvements in relationship and trust building between management and works council or ERs were admitted, as well as the need for improvement of communication between management and employees.

Lack of competencies Concerning the competencies, there is a general agreement that the level is too low in some competencies. In the interviews and in the surveys, managers believe that ERs lack the basic competencies necessary for their role and for successful negotiation. These competences are: business orientation, strategic thinking, proactivity, innovation and analysis. All of the sectors agree that ERs should be more innovative and adapt to the evolution of the company and sector.

The education sector proposes that the ERs' competences are on a sufficient level. The industrial sector HR manager suggests that training should be systematized and oriented to the professionalization of these experts. At the same time employers are not ready to develop these competences offering ERs in-service and/or off-service training.

Answering to the question about further training needs of ERs, the HR manager from the industrial sector made the statement:

There is an urgent need to give training with much higher quality, but it is not the employer's responsibility to offer training on these competences because the skills and knowledge would be too on-sided in this case. True—employers haven't made any suggestions about that to the State Labor Office so far (HR manager, large manufacturing company).

However, there is not a widespread will across Estonian managers to meet and work with ERs who are prepared, competent and open to flexibility and change.

Low prestige It's also worthy highlighting the role of ER has low prestige. There is only a minority who work in an engaged and enthusiastic manner as their peers' representative. The role of the WC member is considered more formal and bureaucratic.

Such a low status of ERs is the result of general management pattern in the organization. Since top managers don't change their attitudes and they are continuously not interested

in people's opinions, the role of employee representative will not be taken seriously (HR manager, educational institution).

EU policies There are no differences among the sectors; there is a general lack of knowledge on these policies among almost all of them. In some cases the knowledge exists to some extent, but EU policies do not have a remarkable influence on HR management policies in companies. The following statement of a respondent clearly represents the general opinion:

I am aware of some EU and National initiatives to promote social dialogue, i.e. equal opportunities on the labor market for disabled people; equal treatment of elder employees etc. These initiatives don't have direct impact on our organization (HR manager, Estonian owned large company).

4.3 Perceptions of Employers on Employee Representatives. Results of the Survey

Results are presented based on the survey among 52 Estonian employees working in HR departments (HR specialists) of different sectors, compared to the mean scores of 614 HR managers from 11 EU countries. Figure 4.3 shows graphically the mean of each variable in comparison to Europe.

One indicator of the stability of industrial relations is the trust. The *industrial relations in terms of trust* are also higher in Estonia ($M = 3.51$) than the European average ($M = 3.31$). Trust antecedents of ERs, are also significantly higher in Estonia than in Europe (*ability* $M = 3.44$ vs. $M = 3.14$; *benevolence* $M = 3.81$ vs. $M = 3.35$; and *integrity* $M = 3.88$ vs. $M = 3.47$). Even more importantly, however, the Estonian employers' representatives (HR managers) evaluate the *competencies of the ERs* quite highly i.e. competencies of ERs ($M = 2.89$ vs. $M = 2.47$) as well as see less *diversity in competencies and attitudes* of ERs ($M = 2.96$ vs. $M = 3.38$).

The study's results suggest that compared to the European average results, the Estonian ERs enjoy significantly higher *empowerment* by management ($M = 4.18$ vs. $M = 3.61$), and on the other hand, the *managers' need for control* is also significantly lower ($M = 2.41$ vs. $M = 2.86$).

According to the survey, Estonian results hint that the conflict management is principally towards *cooperative conflict management* by ERs ($M = 3.10$ vs. $M = 2.76$) and *competitive conflict management* by ERs is significantly lower than average in European survey ($M = 2.33$ vs. $M = 2.59$). Estonian ERs *task conflict* is also significantly lower ($M = 2.51$ vs. $M = 2.81$) as well as *relationship conflict* is also lower ($M = 2.12$ vs. $M = 2.29$). *Conflict management efficacy*, and *characteristics and quality of agreements* in Estonia are assessed exactly on the same level than European average.

Impact by ERs on innovative issues is significantly higher in Estonia than European average ($M = 3.01$ vs. $M = 2.80$).

These results differ largely from the results from the interviews. We elaborate on this phenomenon and its reasons in the discussion section.

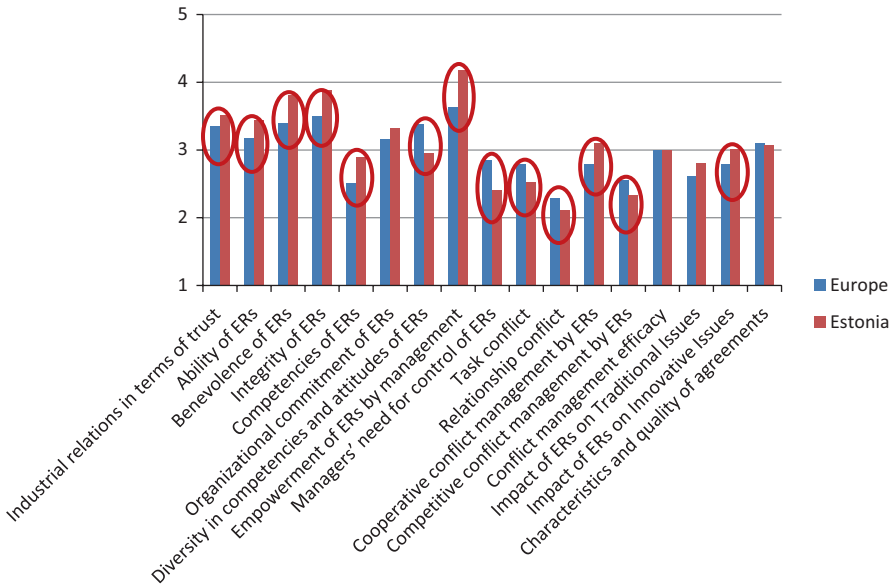


Fig. 4.3 Mean scores of main variables for Estonian and European HR managers

4.4 Suggestions Given by Employers to Improve Social Dialogue in Estonia

There is a major difference between organizations' approaches to employment relation's management depending on the ownership of the company. If the company is a part of some large North European corporation, the regulations for employment relations are very well elaborated. The corporative politics in employment relations are mandatory and have been applied in all corporative members including Estonian branches. Compliance of the corporate rules is followed strictly. In these cases ERs have great significance and a powerful role in the company, and managers' point of view is that there is no need for remarkable improvements in employment relations because things are going well enough.

The situation is different in smaller companies owned by Estonians. Line managers play the central role as communicators between top-management and employees. Line managers explain the goals of the organization to employees and gather information and proposals from employees; deal with the workload, workplace safety, conflict solving and other issues. Top management trusts line managers and do not see a need for a works council as an intermediating body. Organizational management should be organic, they say. The over-regulation is not healthy; it can harm the organization as the self-regulative system. Too many regulations are not good for a healthy organization.

The number of employees (subordinates) for one line manager in our organization is from 10 to 14. This number of employees makes the communication possible with each member

personally and with all together as a team without any formal employee representative's role. The distance to the manager is short and his/her "door is always open". Here we have a specific management culture (HR manager, Estonian owned large company).

There is no need for unions and work councils, if the managers are competent and wise enough (HR manager, Estonian owned large company).

Besides being working environment specialists, they deal with employment relations. Additionally job satisfaction enquires and work environment analyses are implemented regularly by HR departments to get feedback from employees. In many cases the company's intranet is available for all employees to share their ideas and make proposals. Therefore management does not see a need for improvements in work with ERs.

However, the suggestions made by employers in order to improve Social dialogue are summarized below.

1. **No need to engage ERs in decision making.** ERs do not influence the decision making process much. ERs are involved in decision-making only on the stage of the preparation of decisions as sources of information in the cases when employee's opinion is needed on specific areas (work environment matters). The current situation is satisfactory in the opinion of managers and they do not see any need for improvement. HR managers stated that there is no need to engage ERs in the company's strategically decision-making process.
2. **Professionalization of the role of ERs.** A suggestion given by the managers in different sectors is to professionalize the role of the ER, towards innovation and specialization.
Worker councils are dealing merely with the problems of physical work environment (work facilities, air conditioning, work safety etc.), but they do not pay much attention to the psychosocial work environment issues. As these issues are important, they consider that there should be more members in worker councils specializing on psychosocial issues at work. The idea is that the number of the worker council's members should be increased in a purpose of specialization: every member should have a responsibility according to her/his specialty; e.g. a chemist will see about chemical risk factors, work psychologist will deal with psychosocial risk factors, etc.
3. **Changing attitudes.** HR managers suggested that trust between the parties is not sufficient. Managers perceive that some of the antecedents to building trust—that is, ERs being able, benevolent and of integrity—are rather low.
HR managers point out that it's important to make the role attractive to competent people, including those who have a more flexible attitude.
Estonian employers believe training also influences the openness to ideas and could therefore help ERs to take into account the interest of the organization and be more flexible during negotiations.
4. **Improving training quality and increasing competencies.** As clearly shown by the interviews, managers believe that ERs lack the desirable knowledge, skills and competencies for carrying out their role, consequentially hindering the negotiation process.

The 24-hour preparatory training for workers council members offered by the State Labor Office at the beginning of their ER “career” should have higher quality. So far the training has been too theoretical and non-motivating for employees. As the result of the training, the basic knowledge of ERs in employment relations and legislative regulations is rather good, but the competences like “analytical thinking” and “proactivity” are not as high as they should be. It is necessary to improve competences related to business orientation, financing, problem solving, analytical thinking and generalization. Also knowledge in psychology is unsatisfactory. There is an urgent need to give training with much higher quality. HR managers suggested that it is not the employer’s responsibility to offer training on these competences because the skills and knowledge offered would be too one-sided in this case. Apart from upgrading their competencies, a more open attitude when negotiating could result from this specialized training.

There is no problem with technical competences in the educational sector. Employees in this sector are well-educated and competences like negotiation, listening, conflict solving etc. are high enough. More visible is the lack of activeness. Competencies like initiative and pro-activity need to be improved according to the HR managers’ opinions in educational sector.

4.5 Discussion about the Expectations of Estonian Human Resources Managers on ERs’ Roles, Attitudes and Competences

The relationship between employers, trade unions and employees in Estonia is dramatically changing. Globalization, economic turbulence, increasing competition, new technologies, changing world of work and employees themselves with increasing level of education are the basis for the industrial relations change. A changed world of work enables the use of more flexible forms of work (flexible hours, telecommuting, virtual work), while the demands of work, and employees’ competence, work intensity and tempo is increased, increasing the amount of information necessary use for the work, and the existence of the so-called “virtual reality” in communication at work. In many cases, the borders between employees’ work time and non-work time become increasingly blurred; i.e. work has become independent from the working time and also from workplace and work does not depend on working hours and the workroom (workplace) and even not on the location.

Further, in Estonia the union membership rate is 8.1 % (Statistics Estonia 2011) and 13.3% of organizations had elected trustee and organized workers council (Statistics Estonia 2011). The marginal interest of employees in their collective representation allows us to conclude that in Estonia there is a strong tendency towards workforce individualization. This situation raises the question of what employees are doing in a situation where over 80% of organizations lack both a union and a works council. Who represents them? They represent themselves without an intermediary—an individual employee must negotiate and enter into a personal

agreement. Personal arrangements (so-called I-deals) are based on the employee's value and estimation for the organization. Our recent HR managers' study showed that 86.1 % of HR managers and 85 % of non-HR managers (the control group included other professionals) believe that unions don't conduct negotiations about wages; employees do it individually (Teichmann and Randmann 2013).

Working and pay conditions of a specific employee may be different to those of similar-working colleagues. Personal arrangements entered into employment agreements should be an ideal form of relationships that satisfy both parties' needs. Thus, in Estonia industrial relations are characterized by the development of a general trend towards individualization, which means that employees deal about their working conditions individually (I-deals) and submit their wishes. This leads to union membership declining, and increases workers' elected representatives (trustee) role.

If comparing survey results with the results from interviews, the disagreement in results is obvious. While the study results suggest that the Estonian ERs enjoys significantly higher empowerment by management, managers' need for control is lower, benevolence of ERs is higher, integrity of ERs is higher, and industrial relations in terms of trust are also higher in Estonia than the EU average, the results from interviews suggest opposite. While the study results suggest that Estonian employers' representatives evaluate the competencies and attitudes of the ERs quite highly and ability of ERs are assessed significantly higher in Estonia than average in Europe, the interview's results show the opposite: HR managers (members of the top management) are rather skeptical in this respect. The possible explanation for this phenomenon is:

1. Industrial relations in Estonia are characterized by the development of a general trend towards individualization, which means that employees deal about their working conditions individually (I-deals) and submit their wishes. They represent themselves without an intermediary. Personal arrangements entered into employment agreements should be an ideal form of relationships that satisfy both parties' needs. Therefore, no ERs take place in these I-deals negotiation.
2. Due to the history of trade unions in Estonia, and the way in which the union presents itself mainly as an organization, employees are convinced that when we talk about the ERs, we weren't referring to a union, but the employee-elected representatives (work councils or health and safety specialists). In the electronic survey, there was no opportunity to explain the fact that ERs referred and meant both—the union and the works councils.
3. There is a significant difference between the target groups: while the respondents of interview were members of management teams (HR top managers), the online study was more focused in employees working in HR departments (HR specialists) and/or non HR specialists in smaller companies, where the secretary or administrative assistant carries out functions of personnel management. We speculate, that those people are representing more the opinions of employee's than the standpoints of employers.

There is a big difference of ERs role depending on ownership of the company. If the owner is some large Nordic company, the corporative politics have been applied in

corporative members as well. In these cases ERs have a more important and powerful role in enterprise. The traditions in employment relations' management are different in smaller and Estonians owned companies. Worker Councils as ERs bodies exist in organizations mainly on paper and do not have any essential influence in the organization. Managers refer once again to the need for training to be able to communicate more effectively with ERs about different and complex topics related to organizational dynamics and therefore improve trust between the parties.

As the result of interviews with HR managers in different organizations in Estonia it is obvious, that the minority of them is fully aware of the structure and functions of ERs. In many cases the respondents could not give answers to the questions concerning number of members of WCs, frequency of meetings and the main topics WCs are dealing with.

In most cases WCs exist *pro forma*, not having any real impact on decision-making process in organizations. The ERs do not participate in decision-making processes. Input for decision-making processes comes from work environment inquiries. The management strives to involve all employees in decision making via open discussions and opinion polls. The WC doesn't have any special status in this process. According to the employers' opinion the current situation is satisfactory and they do not see any need for improvement mainly because of the poor competencies and low motivation of the members of work councils. HR managers stated that there is no need to engage ERs in the company's strategies, especially finance management decision-making processes.

Management tries to follow the legislation very carefully; compliance with the law is important to avoid any trouble caused by the breach of the law. Work councils as ER's bodies do exist in organizations mainly because this is an official requirement, set by law.

The issues work councils deal with mainly concern physical work environment like ergonomics, ventilation, lightening etc. The psychosocial risk factors like bullying at workplace, equal opportunities, conflicts and other factors give rise to work stress, are not under attention. This situation is going to change soon with the new redaction of Occupational Health and Safety Act, which will be approved in 2014. The managers don't admit gender equality as a problem in their companies, although there is clear evidence of the problem according to the data from studies.

Awareness of EU initiatives to promote social dialogue is very low. There is general awareness of some of them (i.e., equal opportunities on the labor market for disabled people; equal treatment of elder employees), but according to the interviews no one of the respondents was familiar with EU initiatives fully. Even if some of them were named, the comment was that these initiatives don't have the direct impact on his/her organization.

According to interview data there is no tradition in dealing with threats, social actions and strikes as there have not been any. There are some smaller problems of course, concerning workload, work environment and other issues time-to-time, but all these problems have been solved routinely. Sometimes employees react emotionally because of the poor communication, when some decisions are not communicated clearly or opinion of the employees hasn't been asked beforehand.

Put in a wider context of Estonian labor relations, we can find some examples of social actions and strikes. These actions were initiated mainly by trade unions in economic sectors, where unions are more powerful (rail transport and healthcare). As a matter of fact these sectors were not represented in our sample. It is characteristic to Estonian labor market behavior, that employees don't take active steps to protect their rights. So-called "silent resistance" is a proper term to characterize the behavior of Estonian employees: they tend to ignore or even deny problems, and finally—if nothing changes—employees just quit and find another job, in many cases abroad. In 2005 around 5000 Estonian residents worked abroad, whereas this figure had risen to 25,000 by 2012 (Population and Housing Census 2011).

Summarizing, the trade unions movement is not popular in Estonia. From the companies participating in the interviews, trade unions exist only in three organizations from 10. These three organizations belong to the educational sector. In all these cases there is no evidence of the union providing support and guidance to the ERs. HR managers have deep doubts about unions' innovative attitude. In their opinion, unions are rather stubborn, block innovation and prevent flexibility. A minority of employees are members of a union and the union is not visible in their organizations. The reasons for such a situation are mainly historical. The unions have been an instrument of state ideology and power for more than 50 years during the soviet period. People have lost faith in unions and see them as useless. The new unions have not proved themselves yet. People believe that trade unions in their classical form and role belong to the past.

Concerning the nature of conflict management, the results from the survey and interviews are consistent: there have not been social actions and conflicts during the past years because contradictions between employers and employees have been solved cooperatively.

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Chapter 5

Employee Representatives in France: Employers' Perceptions and Expectations Towards Improved Industrial Relations

Aurélien Colson, Patricia Elgoibar and Francesco Marchi

5.1 Historical Context of Industrial Relations and the Labor Movement in France

5.1.1 *The System of Industrial Relations in France: A Centralized, Conflict-prone, Tradition*

‘*Un pays qui n’aime pas négocier?*’ (‘a country that does not like negotiating’): such was the—somehow depressed—conclusion of Jean-Paul Jacquier, analyzing his experience as trade-union leader (CFDT) in France (Thuderoz and Giraud-Héraud 2000). Indeed, industrial relations in France have had to cope with political and sociological features, deeply rooted in history, which do not leave lots of room for negotiation and cooperative social dialogue. Coined as *exception française* or “French exception” by Furet et al. (1988), these features can be summarized under three headings.

First, the founding episode of the French Revolution in 1789, followed by similar popular insurgencies (1830, 1848, 1870, a list to which May 1968 could be added; Winock 1986), created a long-lasting preference towards the direct and conflictual expression of diverging interests, at the expense of patient deal-making (Sellier 1984). To this day, when French strikers demonstrate on the streets of Paris¹, or burn

¹ In 2004, in Paris only, 1361 demonstrations took place on the streets, or an average of almost 4 every day (*Préfecture de Police*).

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wood pallets in front of their shut-down plant, they more or less unconsciously continue this long-held tradition (Sirot 2002). In the 1970s and 1980s, while unemployment was climbing, employees turned to less eruptive actions, described by Morel (1981) as the *Cold Strike*. However, in the last 15 years conflicts have emerged again (Groux 1998) as the French industrial sector is downsizing fast. In 2009, the number of days of strike per 1000 employees was 136 in France, compared to 17 in Germany (INSEE; Bundesagentur für Arbeit). Some social conflicts became especially violent, e.g. Cellatex (Larose 2001) and others (e.g. Molex, Caterpillar, Goodyear, etc.).

Second, the French *Jacobin* state has for a long time tried to maintain centralized control over the labor system, at the expense of social groups i.e. industrial relations partners and negotiation actors (Gantzer 2011). The decree *d'Allarde* and the law *Le Chapelier* (March–June 1791) forbade the creation of workers association and any form of trade unions. The state only would, on a unilateral basis, pass laws regulating the labor system, e.g., on child labor (1841). In 1884 the Third Republic granted the liberty to form workers' associations, opening the way for the creation of the first trade-unions—notably the *CGT* in 1895, influenced by Marxism and then the Communist Party, and the *CFTC* in 1919, influenced by Christian thought (Andolfatto 2013).

A third complicating factor for industrial relations in France is influenced by Roman and written law: voted in Parliament, the law is the supreme expression of the nation's unity (Carré de Malberg 1984), at the expense of *ad hoc*, negotiated, agreements. This hierarchy of norms has prevented industrial relations partners to negotiate much at the level of the firm for most of the twentieth century. It is only since 1982 that conventions negotiated at the lower levels of the pyramid (e.g. the firm) started superseding, under certain conditions, the legal regulations from the higher levels (i.e. the law or government's decrees). This was a turning point, introduced by one of the four *Lois Auroux* passed by the new Socialist government following President Mitterrand's election in 1981, and which profoundly modernized the industrial relations system—no less than a third of the labor legal system was changed (Le Goff 2003).

The result of these three intertwined features is that industrial relations do not find in France a favorable context (Adam et al. 1972). On the contrary, they are the target of recurring critiques—as negotiated processes generally speaking (Colson 2009).

When it comes to industrial relations, the legal system has improved in the last thirty years, building on the *Lois Auroux*. One of these laws (13 November 1982) created an obligation to negotiate once a year, in all companies, on wages and the organization of labor. Then a series of laws passed by left- or right-centered governments increasingly favored negotiation as a legitimate decision making system for industrial relations: *Lois Delebarre* (1986), de Robien (1993), Aubry (1998–1999), and Fillon (2004) notably. Thanks to a law passed on 31 January 2007, any reform on labor issues must be preceded by a consultation of labor organizations, possibly leading to a negotiation; if they reach a negotiated agreement, then it must form the basis of the new legal reform to be voted in Parliament.

5.1.2 *Actors of Industrial Relations in France: Towards Improved Representativeness?*

Following World War II, the state unilaterally designated in 1950 four trade-unions as *representative*, and therefore able to engage into negotiations leading to binding agreements: *Confédération générale du travail* or *CGT* (with strong links to the *Parti Communiste Français*, then the leading party on the left), *CGT-Force ouvrière* or *FO* (resulting from a split-off with *CGT* in 1948 along more reformist a line), *Confédération française des travailleurs chrétiens* (*CFTC*), and *Confédération générale des cadres* (*CGC*, targeting white-collars employees). In 1964, a split-off from *CFTC* created the reformist *Confédération française démocratique du travail* (*CFDT*), which was also recognized as representative in 1966. No other trade-union was registered as representative at the national level.

This system created a *de facto* monopoly of representativeness, no matter how many employees actually joined the trade-unions, or voted for them in labor elections. This had become an increasing difficulty, since the proportion of employee joining a trade-union has constantly decreased; in 2009, the trade-union density was 7.8% in France (OECD)—i.e. the *lowest* rate of OECD countries, with the exception of Turkey. Besides, this average hides the fact that the rate is around 9% in the public sector, and therefore as low as 5% in the French private sector (Gantzer 2011).

In addition, under the *erga omnes* principle in French labor laws, any negotiated deal accepted by *one* trade-union in a given company was deemed legitimate and applicable to *all* employees of that company, no matter the actual representativeness of the said trade-union. This has further created a growing disconnection between trade-unionists and the very employees they pretend to represent (Amadiou 1999; Andolfatto and Labbé 2006). Clearly such a system was counter-productive and discouraged workers' genuine involvement (Tixier 2007).

Two major changes, however, have been introduced by a law passed on 20 August 2008 in order to modernize the system of industrial relations. First, it improved the conditions under which trade-unions can be considered as representative, and therefore take part in negotiations. Seven criteria for trade-union representativeness have been introduced, including a minimum of 8% in labor votes. The first elections under the new system were held in March 2013, and set the scene for the next five years. The turnover was 42.8%, out of (only) 12.7 million employees registered (Ministère du Travail). Results were the following: *CGT* (26.8%), *CFDT* (26%), *FO* (15.9%), *CFTC* (9.3%), *CGC* (9.3%). Two new contenders did not get enough votes: *UNSA* (4.3%) and *SUD* (3.5%). These results are important because the reformist bloc (*CFDT*, *CFTC*, *CGC*) has won a narrow majority over the more radical bloc (*CGT*, *FO*).

Second, as of 1 January 2009, this law put an end to the abovementioned *erga omnes* principle, and replaced it with the system of the *accord majoritaire*: a negotiated agreement will be valid if it is supported by trade-unions representing at least 30% of employee votes, and if within 8 days it is not opposed by trade-unions

representing at least 50% of employee vote. In addition to this, the law extended the possibility to engage negotiations in small and medium enterprises even though there are no trade-unions.

Both of these changes—trade-union representativeness, *accord majoritaire*—clearly improve the system of industrial relations in France. Yet, it might still be too early to see concrete evolutions—as surveys and interviews with employers seem to indicate.

5.2 Current Situation of the Employee Representatives (ERs): What do Human Resources Managers Say?

This section summarizes the most relevant findings on the profile of the ERs, as they appear in the interviews carried out with employers in France. These features are in line with, and further illustrate, the overview of the French industrial relations system introduced in the previous section.

1. ***A window of opportunity for change?*** According to employers, two factors reinforce each other at the moment to prompt a change of scenery in French industrial relations: first, the abovementioned legal reform of representativeness and of process rules for social dialogue; second, the on-going economic and social crisis, which calls for rapid change in order to maintain the competitiveness of most sectors of the French economy. It is increasingly difficult for anyone (including ERs) to deny that business as usual is no longer a valid option. For instance, the recent financial crisis has badly hit the banking sector: ‘*in a matter of two years, ERs understood they had to cooperate in order to help save their company*’, said an employer in this sector. However, the crisis also affects the trust between management and workers. As one HR manager in the service sector expressed: ‘*Trust would increase if the company would be stable. This is not the case nowadays due to the crisis*’. Such an evolution appears mixed, however, depending on the level of exposure of business sectors to international competition.
2. ***Dispersion of trade unions.*** In spite of the 2008 law on representativeness, ERs remain split into five main organizations (*CGT, CFDT, FO, CGC, CFTC*), plus two others which may play an important role in some business sectors or firms (*UNSA, SUD*), plus still several others which might be relevant at the local level only. This dispersion generates two difficulties, according to HR managers. First, trade-unions enter into a political competition, especially in the perspective of ERs elections (which was the case in 2013): most seem to believe that having an aggressive electoral platform will help them win votes. Second, most employers agree that having divided interlocutors in front of them at the negotiation table does not help construct a fruitful social dialogue. In that, sometimes agreements are blocked because the unions cannot find a common opinion within them. One HR manager in the service sector interpreted: ‘*In a group of 30 it’s difficult to*

believe they all think the same; and as they do not want to show they don't agree they don't take any position, and don't give answers, blocking the negotiation'.

3. ***The structure of worker representation remains too complex and formal.*** The 2008 law did not touch the overall structure of employee representation, which remains three-layered: trade-unions function at the national level, at the level of the business sector (*branche*), and then at the level of the firm (the bigger ones having several committees for employee representations and social dialogue), to the extent that *'we don't know any more who does what'*, confessed an HR manager. Several HR managers highlighted in the interview that this structure creates all sorts of principal/agent tensions (Pratt and Zeckhauser 1985), as there might be a lack of alignment between the representatives, their hierarchy in the national trade-union, and their own constituents in the company. As a result, "higher" levels may disagree with negotiations carried out at "lower" levels. *'Sometimes, even if the representatives agree with the policy of the company, they have to refuse the proposal because they must fit with the policy of their trade-union at the national level'*, said an HR manager in the finance sector. The same example can be found in the housing sector: *'Sometimes we reach agreements inside the company which are blocked at national level, by a group that doesn't understand so in depth the company problems'*.

In addition, HR managers consider that social dialogue is heavily constrained by strict regulations, whereas informal dialogue proves very useful (cf. *infra*). Informal dialogue seems to be easier in small rather than big companies: *'Management trusts workers and vice versa. This is mainly due to the fact that it is a small company, where everybody has worked together for a long time and they feel part of the same family'* expressed an HR manager from the education sector. Related to that, in small companies, where informal dialogue is working, the structure of worker representation can be considered as less needed: *'Simplifying the structure would be better. For example: if we are 49 we don't need to have this structure but if we are 51 we need 10 members in the workers council!'* Labor laws are unanimously considered too complicated. The benefits of informal dialogue are also related to trust. An HR manager in the service sector pointed out: *'Informal dialogue at individual level works very well and is effective, but at the negotiation table this trust disappears'*.

4. ***Little influence of ERs, perceived as reactive rather than proactive.*** HR managers consider that under the present system, ERs do not have real influence on the decision-making system of companies. Some HR managers even consider that ERs would actually not be interested to have such an influence, because this involvement in joint decision-making would also mean accountability in the results of the company's strategy. However, ERs retain a capacity to influence the modalities of the implementation of decisions, usually in order to delay the latter. They are oftentimes perceived as reactive (trying to oppose, putting a brake on procedures to gain time), rather than proactive (putting elaborated proposals on the table). *'It is not natural for them to propose solutions, they wait for us to do something and then they react'*, said an HR manager in the education sector. Also, another HR manager in the housing sector expressed: *'There*

is a lack of initiatives by ERs proposing alternatives. The management makes proposals and hardly gets answers from ERs, and when we get answers are normally opposing the initiatives. This is not constructive at all'. However, most HR managers interviewed consider it would make more sense to have a genuine involvement of ERs in the discussions shaping strategic decisions, as a way to prompt more proactivity and responsibility on their side.

5. **Negative image and disconnection with employees.** Most HR managers maintain that should employees perceive French trade-unions as effective and innovative representatives, trade-union density in France would not be the lowest in OECD with the exception of Turkey, as highlighted in Sect. 1. Whereas ERs retain some status in traditional industrial sectors (automotive), they suffer from low prestige in service sectors (e.g. banks, insurance). As a result, in whole areas of the French economy, few employees are interested to get responsibilities as ERs. Classic rhetoric of *la lutte* does not click so well with younger generations. An HR manager from the banking sector said: '*we have a generation issue which is a problem for us, as the ERs are ageing and the bulk of them are over 50*'. Trade-unions fail to attract younger employees, which deepens the gap with the very people they have to represent—e.g. in this French utility company (energy), due to the pace of retirements, 50% of the workforce will be replaced before 2020.
6. **Life-long tenure and lack of turnover.** A consequence of the previous feature, HR managers consider that French trade-unions and ERs suffer from a lack of turn-over: '*one enters trade-unionism and then one never gets out of it*', said an HR manager. Indeed, it seems customary to have life-long tenure as ERs. A senior HR manager in an insurance company, about to retire, noted that over a third of the ERs in his company were already in these positions when he started his career—30 years ago. Some ERs cumulate several responsibilities in order to be full-time on their trade-union responsibilities. The risk is to lose touch with the realities of the other workers' jobs.
7. **Lack of specific capacities.** HR managers acknowledge that ERs know very well the legal regulations pertaining to social dialogue, due in part to the length of their tenure; they are also at ease with the media. However, they consider that most ERs lack (a) awareness of strategic challenges facing their company in a fast-moving competition; (b) technical knowledge and management competencies to contribute and take a proactive role in proposing action plans; and (c) innovative, more cooperative, approaches for negotiation and bargaining. '*We have a real quality issue here*', said an HR manager in the banking sector. The fact that most of them have not for a long time been in classic work positions within the company (§ 6) does not help. And this very lack of expertise proves a handicap when ERs would like to exert an influence on decision, and therefore gain respect from employees. Indeed, it should be noted that most of these seven features reinforce each other, and build a coherent picture—or a vicious circle.
8. **It takes two to tango.** While pointing at the lack of pragmatism in some of their interlocutors, several HR managers acknowledge that the top management of their companies has a share of responsibility in the situation: '*we get the ERs that we merit*'. For instance, companies have not succeeded in providing proper

career paths for ERs, as an incentive for higher turnover and shorter tenures. In companies where social dialogue has been taken seriously for a long time, with personal involvement of the CEO for instance, and once several episodes have reinforced mutual trust, ERs tend to escape from the above-mentioned features. Especially in times of crises, *‘it has been possible to move from a state of distrust to a state of mutual trust’*, stated an HR manager in the banking sector.

5.3 Perceptions of Human Resources Managers on Employee Representatives. Results of the survey

In this section we present the descriptive results based on the data collected through an online survey among 40 French HR managers working in different sectors (i.e. financial, industrial, education). The data collected in France is compared to the score of 574 HR managers from the other 10 European countries participating in the study (Belgium, Denmark, Estonia, Germany, Italy, the Netherlands, Poland, Portugal, Spain and the United Kingdom). In Fig. 5.1 we present the variables’ mean in Europe and France. An independent sample t-test was run to determine the significant differences between France and the other countries participating in the study (significant differences are circled in the graph). As we discuss below, we appreciate main differences between both groups according to HR managers’ perception towards trust, relationship and ERs’ commitment to the organization.

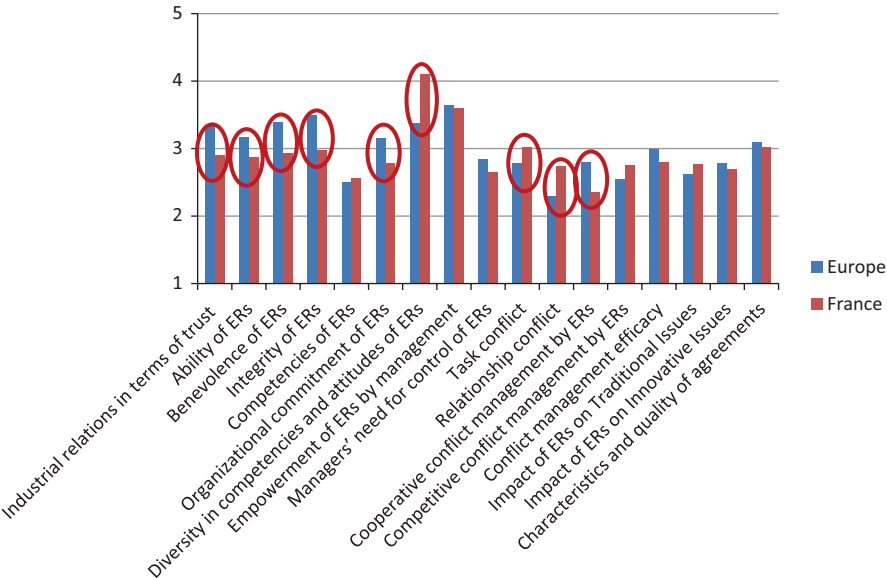


Fig. 5.1 Mean scores of main variables for French and European HR managers

HR managers' perception towards the *industrial relations climate in terms of trust* is lower in France ($M = 2.91$) compared to Europe ($M = 3.31$); and the antecedents of trust (*abilities*, *benevolence* and *integrity*) show the same result. In France, HR managers perceive that *abilities*, of ERs are low ($M = 2.87$) compared to the perception of HR managers in the other European countries ($M = 3.14$). *Benevolence* is also perceived as low ($M = 2.94$) compared to the other countries ($M = 3.35$). The third antecedent of trust that we measure is *integrity* and it is concluded that it is perceived also as lower ($M = 2.98$) than in the other countries ($M = 3.47$). The low perception of trust and its antecedents in French organizations drives us to explore the relationship between the parties (HR managers and ERs).

We observe that HR managers perceive more *relationship conflicts* in France ($M = 2.74$) compared to Europe ($M = 2.29$). Also *task conflicts* are perceived as higher in France ($M = 3.02$) than in the European sample ($M = 2.81$). According to the conflict style used to solve these conflicts, we see that a *cooperative strategy of conflict management* is less used in France ($M = 2.36$) compared to Europe ($M = 2.76$). A difference according to the *competitive strategy of conflict management* is not observed between France and Europe.

It is important to explore HR managers' different perception towards ERs' *commitment* to the organization. We see that HR managers in France perceive that French ERs are less committed to the organization ($M = 2.78$) compared to the European average ($M = 3.16$).

It should be noted that no statistical differences were found according to the perception towards ERs' *competences* in France compared to the other European countries, although in the interviews this issue was pointed out. However, the diversity in competences and attitudes of ERs are shown to be high in France ($M = 4.10$) compared to the European sample ($M = 3.38$).

5.4 Suggestions Given by Employers to Improve Social Dialogue in France

The consensus amongst HR managers, according to both interviews and surveys, is that improvements are needed—and urgently. HR managers would like to help changes happen, when it comes to gaps in ERs representativeness and capacities, or the lack of cooperation and effectiveness in negotiation processes. This appears increasingly important, as the range of topics under discussion keeps growing. Indeed, in addition to traditional topics like wages and working shifts (representing 40% and 25% of negotiation topics in 2011; Jobert 2013), new topics have appeared, which are more open to social innovation and mutually satisfactory agreements: stress & working conditions (e.g. fight against moral harassment), diversity at the work place, gender equality (now compulsory every three years), “quality of life at the work place” (cf. for instance the agreement negotiated at Areva and signed on 31 May 2012). This expansion and diversification induce more sophisticated negotiations, calling for adequate capacities and training of ERs.

1. ***A priority is to put an end to the life-long tenure system.*** Neither the company, nor its employees, can afford to keep for decades the same ERs, who run the risk of losing touch with the actual jobs of the people they wish to represent, or with the reality of their business environment. Several HR managers suggest that no ER should be re-elected more than once—hence a maximum term of 10 years.
2. ***Improving career management for ERs.*** In order to reinforce the previous suggestion, HR managers suggest that companies should better help ERs “re-enter” the workforce following one or two term(s) as ER. Being an ER (for a period of time) should be better considered by the company as a valuable leadership and stewardship experience in a career, and valued as such. Such recognition would help attract new and younger employees towards ER responsibilities, for the benefit of the company and its employees alike. *‘We should be able to convey the message towards promising employees that running for election won’t be a stain in their career, but rather an asset’* said an HR manager in the banking sector.
3. ***Raising the profile of trade-unionism in higher education.*** HR managers point at that the French higher education system has a share of responsibility in the negative image of trade-unions, which then does not help attract the most dynamic employees into ER responsibilities. They suggest that curricula should include more on the necessity, and the conditions, of social dialogue. This seems especially important in business schools and management universities.
4. ***Providing training programs to ERs.*** HR managers agree that more could be done to help ERs support innovation in social dialogue for mutual benefit. Three areas are identified. First, strategic vision, or *“the big picture on why change is needed”*: international competition, global financial flows and equilibriums, societal change, benchmarks. Second, customer relationship management, as HR managers perceive ERs to be too self-centered, or too focused on the internal structure of the company, whereas its survival depends mostly on its management of relationship with external partners—starting with the customer. Third topic of interest: cooperative bargaining, as negotiation processes and routines should be shifted towards less confrontational and more value-creating approaches. This could help prompt changes in terms of attitudes, and conflict management style: *‘The company should have given them training as soon as they got elected’* expressed an HR manager from the education sector. Another HR manager agrees and adds that the trade unions should also participate in the training programs. For at least one HR manager, some ERs may be reluctant to join training programs where they have to mix with other employees having a better understanding of on-going challenges.
5. ***Involving ERs more into decision-making mechanisms.*** Several HR managers consider that as ERs have no real grip on company’s strategy, it is understandable that they turn to conflictual rhetoric and “speaking to the gallery” instead of trying to put thorough proposals on the table. In order to involve them more in the decision making system, and therefore boost their sense of responsibility and accountability, HR managers very much doubt that the overall legal system of industrial relations in France is likely to be transformed on the short term. In this regard, however, they welcome a recent change brought in by the *Accord*

national interprofessionnel sur la sécurisation de l'emploi (national negotiated agreement) signed on 11 January 2013. Clause #13 of this agreement introduces an innovation in terms of governance, inspired by Germany: employees must be represented at board level, for all firms having more than 5000 employees in France and/or 10,000 globally.

6. **Investing in information sharing.** In order to improve relationships with ERs and raise the level of mutual trust, most HR managers agree that a lot can be done informally at the level of the firm. In addition to the official/legal negotiation fora, more and more firms should create ad hoc groups gathering ERs and management (together with external experts if need be) in order to engage into informal discussions—the output of which can then be injected into the official pipeline. Such groups have emerged recently under various names: “*groupe de pilotage*”, “*instance de dialogue stratégique*”, “*groupe paritaire de concertation*” (Didry and Jobert 2008). These groups create a fruitful continuum between information, consultation, and negotiation, involving more than “the usual suspects”, and favorable to industrial relations generally speaking. Nevertheless, HR managers point out that improving the level of internal transparency requires that confidentiality towards external stakeholders is respected (Colson 2004): this risk is particularly sensitive in the banking industry.
7. **Minimizing trade-unions divisions.** Although they understand that different approaches or political inspirations may be legitimate, HR managers consider that having so many different and small organizations across the table does not help anyone: neither the management nor the employees. “*We would have two or three big organizations, it would help build trust*”, said an HR managers from the energy sector, and would diminish transaction costs. The 2008 law established a threshold of 8 % for official recognition, which might prompt rapprochements or mergers between the smaller players.

5.5 Discussion on Expectations of French Employers on Employee Representatives' Roles, Attitudes, and Competences

From a negotiation theory viewpoint, one could argue that the French system of industrial relations is reaching a “mutually hurting stalemate”, as defined by William Zartman (1985): as the economic crisis and its social consequences deepen, and as global competition threatens whole business sectors of the French economy, neither employers nor employees can afford any longer to remain in this situation. The system is “ripe” for reform.

The question remains whether reforms will emerge from above—through new legislation—or from within—thanks to mutual adjustments between industrial relations partners and evolutions of attitudes at the level of companies. The French tradition (see Sect. 1) would point at the former. Recent moves hint at the latter.

There are indeed a few reasons for hope. First, the latest figures available (Ministère du Travail) show a growing number of negotiated agreements at all levels: national (*interprofessionnel*), business sector (*branche*), and firm (34,000 agreements in 2011 vs. 28,000 in 2006 and 23,000 in 2002). Second, social partners now try and negotiate so-called “offensive” agreements: pro-active deals trying to anticipate on future challenges in a more innovative way. For instance, the French automotive industry is going through an acute crisis, and this helped secure “*accords de compétitivité*”, whereby ERs and employers agreed to certain changes in a proactive manner (Jobert 2013). However, with a few exceptions, HR managers do not have lot of knowledge on European Union policies pertaining to social dialogue. Last but not least, all employee trade-unions and employer organizations managed to strike a national deal on 11 January 2013, called *Accord national interprofessionnel sur la sécurisation de l'emploi*. Interestingly enough, the government agreed that the results of this major negotiation should be fully respected and confirmed by the Parliament, which passed a law to include into the legal system the points agreed through negotiation. Is the French state now taking seriously industrial relations and the labor movement?

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Chapter 6

Management's Perceptions of Social Dialogue at the Company Level in Germany

Michael Whittall

6.1 Historical Context of Industrial Relations and the Labor Movement in Germany

Germany has had a strongly structured but evolving industrial relations system since World War II. Increased global competition and the cost of unification, however, has left its mark on what Streeck (1995) calls German capitalism. Although employers' generally remain committed to a system that promotes "interest convergence" (Sorge 1999), a level of decentralization has emerged, marked by some employers withdrawing from national collective bargaining arrangements and opposed to co-determination (Abel and Ittermann 2001; Artus 2006; Trinczek 2006).

On the surface the German industrial relations (IR) system might appear complicated and a multitude of contradictions to the non-German practitioner. However, German IR, widely referred to as *Modell Deutschland*, can be considered a finely tuned system of conflict resolution. A concept at the heart of *Modell Deutschland* is *Tarifautonomie*, free collective bargaining. Unlike in the Weimar Republic, the State deems collective bargaining the prerogative of employer associations and trade unions. At first sight this approach seems distinctly similar to that of British voluntarism where the emphasis is on State abstinence in the realm of employee relations. Such a conclusion would be quite false, though. German IR has a clear subsidiarity character, one in which the State plays an important role in employer and employee relations. The State legally sets the rules of the game (Müller-Jentsch 1997), a game designed to promote *Sozialpartnerschaft* (social partnership) and a high degree of flexibility. Discussing, for example, *Tarifautonomie* Müller-Jentsch (1997, p. 203) notes:

When we discuss *Tarifautonomie* today what is meant is the formalization and legal sanctioning of relations between labor market, trade unions and employer associations. In other words: the controlled conflict regulations and collectively acceptable agreements ensure that conflicts between capital and labor—when necessary in the form of industrial conflict—lead to compromises.

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Currently, around 53 % of employees in western Germany and 36 % in eastern Germany are covered by such an arrangement (Institut für Arbeitsmarkt- und Berufsforschung, IAB 2013). With the exception of Scandinavia such figures suggest collective bargaining remains high and stable compared to most other EU countries which have experienced a decline in collective agreements.

Historically, the State has also been heavily involved in promoting social dialogue at a company level. Since the 1920s the State has passed numerous laws designed to encourage communication between employee and employer representatives: the most prominent of these being the Works Constitution Act (WCA) (1952) and the Co-determination Act (1976) (Müller-Jentsch 1997). Here, too, deciphering how the system works can be a challenge, no more so when trying to comprehend the representative role of works councils. For example, the WCA requires WC members not only to represent the workforce's interests but equally to promote the economic viability of the company—this usually being perceived as a managerial task. As Whittall (2000, 2010) notes, non-German IR practitioners are known to be suspicious of German works councils, viewing them as nothing more than management lackey's. The resources works councils have at their disposal, a fully operationalized office as well as fulltime officers (all funded by the company) often raises questions about the independent nature of this institution. Certainly, numerous authors have picked up on this issue, either pointing out how (1) the WCA was designed to undermine the power of trade unions (Markovits 1986) or (2) how WCs have contributed to institutionalizing conflict (Müller-Jentsch 1997). Undoubtedly, relations with trade unions can prove complicated at times, especially in recent years with a growing emphasis placed on decentralizing collective bargaining.

However, reality is far more complex than it first appears. Firstly, what is widely referred to as the “dual system” of IR, company-plant level representation through works councils and branch level representation via trade unions, fundamentally accepts that relations between employers and employees is marked by a conflict of interests. The WCA, for example, recognizes that any cooperation is based on conflict and for this very reason the works councils are empowered with strong co-determination rights. Secondly, although legally classified as independent and so a possible threat to the power of trade unions in the realm of employee representation, works councils in most cases function as the extended arm of organized labor. Most works council chairs are members of a trade union, WC members play a leading role in collective bargaining commissions and WCs represent a key platform for winning new members to the trade union. In return, trade unions are (1) an important source of expertise for WCs and (2) legally retain the right to call industrial action. Moreover, this relationship has consequences for the value system of WCs. Hence, although WCs are legally bound to promote *Sozialpartnerschaft* their close association with trade unions goes some way in ensuring that their relations to management are not devoid of conflict.

These ambiguities, though, help to demonstrate an important quality within the German system, the open-endedness of employee relations. Although the State sets the parameters, the rules of the game, it is left to the actors to determine the outcomes. Such an institutional arrangement means that even given the regulated

character of *Modell Deutschland*, a point some employers are highly critical of, the system is not immune to change. The last twenty years, for example, highlight this point quite eloquently. Faced by three historical events of some magnitude, the unification of Germany, the economic integration of Europe and a global recession (the scale of which last experienced in the 1930s), German IR actors have been required to adapt. Thelen (2000) refers to this as 'functional conversion' nature of German IR, its ability to retain its key institutional characteristics even when faced new historical circumstances. Here, the emergence of open-clauses is an excellent illustration of *Modell Deutschland*'s ability to respond to changing economic and political conditions (Whittall 2005). Designed to allow companies to adapt to fluctuations in the market place, open-clauses represent a partial decentralization of collective bargaining, empowering company actors with negotiation rights previously retained by employer associations and trade unions. Involving a readjustment of the dual system, company level negotiations have emerged to compliment rather than replace industry level collective bargaining. It is generally accepted that this process of "controlled" decentralization agreed by employer associations and trade unions has spared *Modell Deutschland* the dismantling traumas experienced in many other countries (Streeck and Rehder 2003).

More recently, German IR was put to the real test when faced by the repercussions associated with the financial meltdown (Lehndorff 2010). Employer and employee representatives at all levels combined to manage the crisis, preferring to use various working time models, i.e. a shorter working week and working time accounts as an alternative to making employees redundant (Klöpfer and Holtrup 2011). Some writers have commented that the crisis not only exemplifies the advantages of German social dialogue but equally has strengthened the system. Zagelmeyer (2010), for example, suggests that the crisis helped to bolster management's support for WCs and trade unions, two employee institutions which had been heavily criticized prior to the crisis.

6.2 The Current Situation of Employee Representatives: What Do Human Resource Managers Say?

In what follows respondents, personnel managers, generally confirm the assumptions of current research on German IR that social dialogue in the face of global and European competition remains an important factor in Germany's economic success. Although respondents indicate relations are never straight forward, one interviewee even noting '*that like all marriages you have to work at it*' (Personnel manager, Bank 3), a general support for the notion of social dialogue prevails, however. In discussing the German situation, respondents in the main are referring to works councils and not trade unions. The dual nature of German industrial relations, a system which as noted above formally locates trade unions' influence firmly outside of the workplace, ensures that personnel managers' interaction with employee representatives is primarily with WCs.

6.2.1 *Social Dialogue and the Attitudes of Works Councils*

The majority of respondents, seven of the ten organizations in all, paint a very positive view of industrial relations within their enterprise. Generally, it was argued that the positive climate owes its success to the legal framework put in place to promote social dialogue. In particular, an acknowledgment that managers are legally held accountable for their actions. This position is summed up excellently by the following respondent:

It is important to act in a way that the WC is able to save face. It is not about winning one battle but about a long term relationship. When there is no trust then I have a problem. You have to remember that the WCs are very powerful. Co-determination has another level, it is not only the WC; we also have the supervisory board where employees are represented. Even when the employer has more votes (on the supervisory board) nobody wants a fight here. Therefore we are advised to have a good and equal relationship to the ERs. (Personnel Manager, bank 2)

Although historically management was initially skeptical, even critical of co-determination (Kotthoff 1994), fearing it would restrict their ability to manage, today's managers appear very receptive towards German co-determination. They view it as a solution to problems that can arise in companies. In the three cases (Brewery, Insurance and University) where interviewees were less glowing of their WCs, respondents suggested that relations were marked by low trust. Interestingly, the respective personnel managers were not necessarily critical of the German IR system, but rather the individuals in question. The respondent from the Brewery argued:

When I say that I could do without a WC, such a comment goes for the situation here. Generally, I think that WCs can have a positive influence and that working together with a WC can be very helpful. It is just that I am faced by a different situation here at the moment. I would say the relationship is Ok but it is not constructive. (Personnel manager, Brewery)

In these three cases, Brewery, Insurance and University, the respondents implied that their respective WCs were too influenced by trade unions, and as a consequence less committed to the principles of social dialogue. The implication being that the individuals in question spent too much time on union as against company business. The personnel manager of the University in question argued:

In my opinion the WC has this typical trade union view of the employer; the WC thinks the employer, namely the HR department, has a negative attitude toward the employees. That is wrong, but this is the opinion of the WC... The chair of the WC wants to demonstrate how much power he has. The WC chair is very competent. However, his problem is that he is very one-sided in the way he views things. The main competence that they require is to see both sides, the interests of the employees and the employers. (Personnel Manager, University 1)

Such a negative opinion of trade unions, however, was not a position held by the majority of managers interviewed. On the contrary, many respondents noted that although there was a strong union presence due to the fact that the majority of WC members carried a union card, unions' played a minor role within the company as a consequence of the dual nature of Modell Deutschland. Furthermore, relations were in the main constructive.

Interestingly, there was a general acceptance amongst management that conflict is a natural phenomenon of employee and employer relations. In short, a managerial culture exists in Germany which accepts a pluralist conception of employment. The following three respondents offer an excellent insight into how social dialogue is practiced in Germany:

I would say that we have a very good relationship with the WC. Naturally, the relationship is shaped by conflict. At the moment we are laying people off in response to the crisis. We are outsourcing and these are issues that both the WC and the union are unhappy about. On the other hand we are trying to ensure that such processes are implemented in a social and fair way. (Personnel manager, Bank 1)

Traditionally IR relations can be characterized as constructive, a desire to work together, and I think 99% of my colleagues and 99% of WC members would back me up on this. We are aware that we represent different interests. That is clear. But we are also aware that we sit in the same boat and that we have to row together so that the boat does not sink. And this is very different to the trade union situation in the UK in the 1970s, where the unions tried to push through only their interests rather than trying to reach a compromise and therefore were stripped of their powers by Thatcher. Here we are aware of the different interests, but we try to find the optimum solution for the company and its employees. (IR Manager, Consumer Company)

I do not see how we can make improvements. Legally the WC has quite different tasks (representing employees) and because of this there will always be conflict and from the point of view of legislators this situation is what they want. Both bring their interests to the table and seek to find the best possible solution. (Personnel Manager, University 1)

By signing-up to such a pluralist approach, management acknowledges the requirement to manage conflict. Hence respondents accepted that employees' have the right to be represented. It was outlined that an independent employee institution can have benefits for companies, too. One advantage involves better access to the workforce. It was pointed out that whilst employees are reluctant to raise issues directly with management such apprehension is not applicable to the works council. A number of respondents took up this issue:

I believe that the WC hears about a lot of employee issues that the HR department is unaware of. I believe we get a lot of information via the WC that we would otherwise not be aware of. For example, how is the mood amongst the workforce. (IR manager, Consumer Company)

There are situations that exist whereby the personnel department is forced to represent the interests of the employer and for this reason I think it is very important to have a counterpart which only represents the interests of the employees. (Personnel manager, Bank 2)

Next, respondents referred to the notion of legitimacy in connection with the existence of works councils. By having the WC on its side management indicated it was easier to gain the support of the workforce for proposed employment changes that might prove contentious. A WC is in a better position to gauge how the workforce is likely to respond to managerial proposals. A manager of a consumer company and leading figure in German personnel management argued very strongly:

I accept that my proposals cannot be implemented 1 for 1, but I know that a good WC, a WC that is critical, is able to offer constructive suggestions to find not only a solution but a better solution because they (WC) are in a position to consider views that I am not able to take into consideration due to my position as an IR manager. For example, what factors motivate or demotivate the employees. And for this reason I support this constructive process of decision making even when it costs a lot of time and can involve stress because I know that through this process of compromise we will reach the best solution. (IR Manager, Consumer Company)

Another personnel manager took up a similar position when discussing the issue of redundancies, pointing out that in such difficult times the WC can play a positive role in the implementation of unpopular managerial decisions:

It is nice to discuss things with them [WC members]... Before someone is made redundant they [WC members] turn the company upside down to see if they cannot redeploy this person. This means I can sit in front of the employees and WC and not have a bad conscience. (Personnel manager, Bank 3)

Concerning ERs' attitudes the majority of respondents depicted their works council as possessing an attitude that promoted a "balanced approach". They associated such a balanced approach with the need to take into consideration the interests of the employees and the company. Here, the WCA is deemed as having positive impact on WC members' attitudes, a socialization tool which helps to convince WC members of the necessity to take into consideration factors required to maintain the economic viability of their company. When asked to classify the attitude of their WC using a scale of 1 to 10, 1 being very poor and 10 being excellent, the majority chose between 7 and 9. Although they were referring to the specific situation in their company the following respondent catches the general mood amongst respondents when stating:

I would choose the number 7. They take their responsibilities seriously. They do not only work for their own interests but also for those of the company. As I said, I believe we have a good relationship. In a period when there exist so many difficult and not so pleasant issues (redundancies), it is hard to seriously improve the attitude of WCs. I am happy that we have developed a positive way of dealing with each other over many years. This has made life easier during the crisis (recent financial crisis). I have not got a clue how we could improve this (attitude). It is hard enough to keep what we have. (Personnel manager, Bank 1)

In sum, German managers viewed Modell Deutschland positively. Respondents highlighted how the legal landscape of employee relations helped promote social dialogue, which in turn made a useful contribution to the economic success of their company. As will be demonstrated below, though, the legal framework and the positive attitudes of WC members were not the only factors which contributed to creating a positive IR climate. Another important variable which interviewees often mentioned involves the competence levels of ERs.

6.2.2 Competencies of Works Councils

Respondents were unanimous in their assertion that for the German system to function it requires employee representatives which possess excellent competence

skills. The emphasis management places on WC competence levels can be observed by the fact that respondents were keen that WC delegates participate in training programs. Attending training programs were perceived to help WCs comprehend (1) developments within their business and (2) why management favors certain policies over others. One respondent suggested:

Maybe it would be a good idea if ERs had a certain understanding of how businesses work because it is not always recognized that management has to make sure the company is successful. I do not lay people off because it is something I like doing but because it is necessary so to ensure that the company can employ people in the future. (Personnel Manager, Bank 2)

As the following respondent notes, WC members, in particular chairs of WCs, need to have an extensive knowledge of German employment law, an understanding of the business and finally social skills:

The WC should have the function of a co-manager. Together with management it should be concerned with finding the best solution for the company and therefore WC members need to be orally competent, they need to understand financially how the company works. They need to possess all the competencies required of a co-manager so that they are on the same level as the top management. (IR manager, Consumer Company)

In the case of the consumer case study the manager in question highlighted how the excellent skills of the WC chair had led them to take on the mantle of management. The respondent drew attention to the fact that the WC had developed a vision paper in which it emphasized that (1) employees are our main concern, (2) we (employees) want to guide company decisions, (3) we (employees) want growth through highly qualified employees (job security), (4) we (employees) respect all parties involved in IR and (5) we (employees) want to be involved in developing sustainable competition. The interviewee was keen to point out how one could be forgiven for assuming that such a document was drawn-up by the personnel department.

Concerning the issue of social skills, for example, respondents outlined how good relations with the WC were heavily dependent on the WC chair managing other WC members. Due to the de-central character of Modell Deutschland, WC members representing their site/office, unanimity amongst WC delegates is not a given. In particular, communication skills play a key role, the ability to convince other WC delegates of the need to consider certain managerial proposals. The following two respondents made this very point when stating:

There is nothing worse than sitting opposite someone when at the end of the day they are not able to explain compromises to the workforce.... (Personnel Manager, Industrial Company)

The chair of the WC is known for his excellent social skills. He has the ability to put himself in other people's shoes. (Personnel Manager, Bank 1)

Clearly, differences in competence levels could be observed, with a close correlation between skills sets and certain sectors quite noticeable. For example, the personnel manager for non-scientific staff at a university was somewhat critical of WC members' competence levels, noting that their modest educational background was an obstacle to good working relations:

The members have been elected out of the workforce and for this reason they do not possess the necessary skills. A good WC member should have the basic theoretical knowledge, what rights a WC has. (Personnel Manager, University 1)

There is clearly an assumption in some managerial quarters that there exists a close correlation between the educational background and skill levels, ERs with a university education depicted as less emotive and guided by rationality. This point is taken up by the following respondent:

Many WC members, not the majority, have a university education and this helps. It is a lot easier when you have a WC chair that has been to university, I find it easier to deal with certain issues. In cases where the education level is not so high, and we have this problem, disputes are a lot more difficult because facts do not play a big role here, rather emotion and fear. This leads people to react in a harder way [less co-operative]. (Personnel manager, Bank 1)

On the other hand, WC members possessing a university education are perceived as not only able to comprehend intricate issues but equally more likely to seek a solution which serves all parties involved, i.e. a balanced approach. In cases where WC members do not possess the above skills a tendency towards what one respondent calls the “formal approach” prevails, formal channels take precedence over face-face interaction. Discussing relations with the former WC chair the personnel manager of an insurance company noted:

When they had an issue they would drop by and ask me if I had any problems if they spoke to someone about this issue. They assured me they would keep me informed. That is the way we did business. It worked really well. It had to do with the person in question... Our open door policy seems to be [currently] suffering. They [current WC] prefer the more formal approach. A new hobby seems to be sending e-mails. When I get to my office on Monday I have half a dozen e-mails from the same people. I keep telling them to drop in so that we can sit down with a specialist and try to answer the question. But no, they insist it has to be put down on paper. (Personnel manager, Insurance Company)

However, it needs to be recognized that respondents could be expressing a degree of bias here, their own university background guiding their assumptions’ of what factors contribute to WC members possessing excellent competence skills. For example, one respondent, the personnel manager of a leading German multinational, viewed their counterpart, an individual without a university education, very highly:

The chair has the advantage that he is not vain, someone who has a good ear for the shop floor and someone who is able to understand problems and find solutions. Some people make life difficult because they prefer micro-management, sometimes this is necessary but it is necessary to look at things in an abstract way if you are going to make progress and this he is able to do. He is an old fox—he has been on the joint WC since the 1980s. He has experienced a lot of things and has a good understanding of the company. (Personnel manager, Industrial company)

Interestingly, respondents demonstrated a high degree of sympathy in cases where WCs lacked certain competencies. As noted above, respondents were committed to a professionalization of ERs where this was required. In particular, ERs knowledge of employment law was viewed as placing them at a disadvantage compared to their

counterparts in the personnel department. With the exception of one respondent all the personnel managers that participated in the study had a degree in labor law. The majority of interviewees, however, indicated a lack of interest in taking advantage of this potential weakness on the part of ERs. On the contrary, some respondents were even eager to address this problem for a number of reasons. Firstly, there existed a general commitment to getting ERs up to speed. ERs not versed in German employment law were portrayed as potentially problematical. This is because discussions can prove time consuming as ERs tend to constantly seek clarification with regards managerial proposals. Usually, this involves consulting with their respective trade union. Secondly, it was suggested that a sustainable working relationship requires management not to take advantage of their superior knowledge of German employment law.

As already indicated German co-determination empowers ERs with far reaching rights, especially at the supervisory board level. In addition, the dual nature of Modell Deutschland also ensures ERs have access to trade unions' highly resourced legal departments. Hence, a situation would appear to prevail in which management prefers to deal with well-informed ERs rather than a trade union speaking on behalf of the workforce. The former scenario is more likely to be the bearer of social dialogue.

6.2.3 *Trust and Labor Relations*

As directly or implicitly indicated in previous sections, trust represents the glue that holds the system together. The majority of interviewees indicated that trust relations were high. The following respondent sums up nicely the general position that would appear to prevail in most of the companies that participated in the study of social dialogue in Germany:

I think the trust level is very high, and this has to do with the fact that the WC has never used any form of industrial action to stop something it is unhappy with. The total blockade has never occurred. When we involve the WC discussions take place. The discussions can sometimes be quite hard, but at the end of the day we reach a joint solution. (Personnel Manager, Cigarette Company)

In the two case studies where trust proved more problematical (University and insurance company), although differences could be observed here too, the latter less critical of the WC, both personnel managers were disparaging of the fact that WCs had begun to by-pass the personnel departments. This involved the WCs taking-up issues directly with the board/senior management. As one respondent pointed out the poor trust relations meant WCs might renege on a decision:

In the past I could depend on the WC, they kept to their word. In recent months our experience tells us that things have changed. (Personnel Manager, Insurance Company)

More generally all respondents indicated a key variable which contributes to successful trust relations concerns space, the need to limit the geographical space

between the WC and the personnel department. The personnel manager of a German brewery noted that they had better trust relations with the local WC merely by the fact that they sit in the same building. Another personnel manager indicated that for this very reason his main task in the coming year would involve visiting as many WCs as possible spread around Germany. For this reason some respondents favored the WC sitting on the same corridor as the personnel department as this can help to promote a higher degree of interaction. Why send an email when the head of HR sits two doors down the corridor?

Trust, though, is depicted as a commodity which requires constant cultivation. The majority of interviewees indicated that trust relations had had to contend with large levels of redundancies in recent years and as a result, '*This has had consequences for trust relations (IR, Consumer Company)*'. Respondents pointed out that one means of improving trust relations could involve management and the WC jointly attending seminars on issues relevant to both parties, or alternatively holding workshops together. Although the personnel manager of the insurance company was less than happy with the current WC, they indicated that in the past they had successfully put in place processes which had to be adhered to when dealing with each other:

We developed rules about how we wanted to deal with each other as well as processes for dealing with problems. (Personnel Manager, Insurance Company)

6.3 Employers' Perceptions of ERs. Results of the Survey

These results are based on the survey of 33 German HR managers from different sectors. These are compared to the scores taken from 581 HR managers from ten other countries in Europe. The significant differences have been circled.

In Fig. 6.1 a picture emerges which supports in the main the key qualitative findings, namely relations between HR managers and works councils is positive. Furthermore, that WCs make a positive contribution to the business. A few examples help demonstrate these facts. For example, in terms of *industrial relations* and *trust* German ERs' score was significantly higher ($M = 3.76$) than the rest of Europe ($M = 3.31$). In terms of *competence* levels, too, ERs score higher ($M = 2.90$) compared to Europe ($M = 2.47$) in the eyes of German HR managers. In terms of *organizational commitment* German ERs ($M = 3.59$) are portrayed as being more positive than their European colleagues ($M = 3.16$). The same applies for *cooperative conflict management* by ERs (Germany $M = 3.09$ and Europe $M = 2.80$) and for *characteristics and quality of agreements* (Germany $M = 3.36$ and Europe $M = 3.09$). ERs also score very high in terms of their *impact on traditional issues* (Germany $M = 3.29$ and Europe $M = 2.65$), as well as on *innovative issues* (Germany $M = 3.09$ and Europe $M = 2.80$).

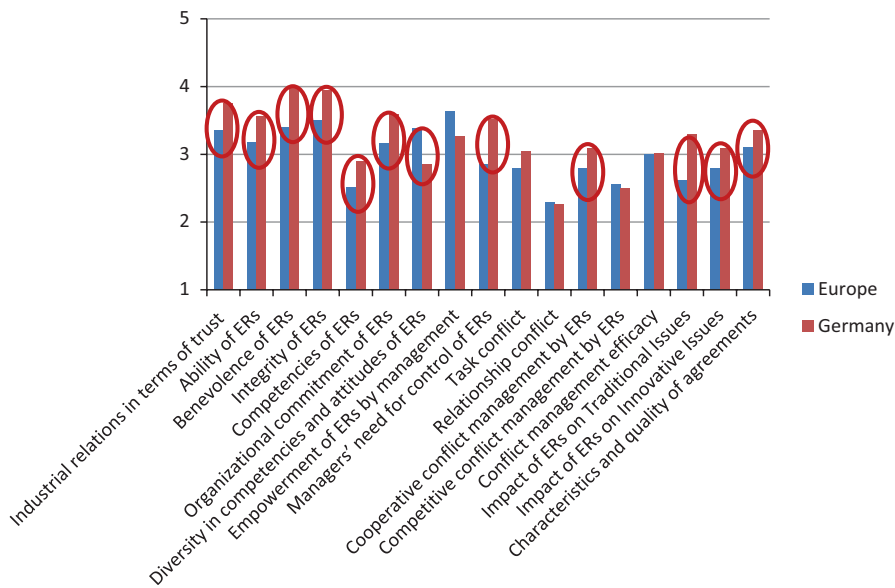


Fig. 6.1 Mean scores of main variables for German and European HR managers

6.4 Suggestions Given by Employers to Improve Social Dialogue in Germany

In the main the qualitative and quantitative findings depict a flourishing German employee relations landscape—at least at the company level. In most cases the respondents had studied German labor law. This fact would appear to contribute to their favorable disposition towards Modell Deutschland. In most cases their legal background, at least on the surface, suggests German personnel managers accept that employer and employees relations are ultimately a pluralist relationship, i.e. acknowledge the potential conflict of interest between employers and employees. Hence, their job (here German co-determination law plays a supporting role) together with WCs is to manage conflict where it arises. Of course, the dialectical nature of employee relations ensures that a degree of flexibility has to be addressed. Therefore, respondents did indicate that sustaining the German system required consideration of how they could personally improve the way they function, but equally how ERs could enhance their skills sets.

In the case of WCs the majority of HR respondents praised the competence levels of the chairs and their deputies. However, it was suggested there was room for improvement with regards the wider WC, in particular in the area of employment law. Certainly, WCs in the process of a generational change, this due either to the election of a new WC or the retirement of the existing chair, appear to be particularly affected by a skills deficit problem. As a consequence the implementation of new actions is difficult:

This makes life difficult. It costs time. This department and the board want to implement things. (Personnel Manager, Insurance Company)

It should also be noted that six of the ten companies in question were multinationals and as a consequence highlighted the need for certain skills specific to their situation. In particular, ERs were criticized for not possessing the necessary foreign language skills needed to function within a global company. As the following IR manager suggests this requires a possible professionalization of ERs, individuals needing to feel at home on the international scene as much as they do on the national scene:

I will give an example. When we are required to implement international projects and we show English charts and slides there are WC members, people who have been WC members for many years, individuals who have worked for an international company for many years, but who are still unable to read these. I think this is unacceptable. There are many reasons for this. One of the reasons is that WC members, certainly in large companies are required to do a lot of different things, they need to learn a new language, they need to be able to read the financial books, they need to be good communicators and they need to deal with CEOs. But they are still paid as normal workers. (IR manager, Consumer Company)

According to the same respondent this might require a re-writing of the Works Constitution Act, specifically in relation to the question of remuneration. The implication being that the job of many ERs is similar to that of top managers. Hence, it was suggested there is a need today to pay ERs as if they were managers. The implication being that higher pay scales for ERs would encourage highly qualified employees to consider a career within the WC.

In discussing more generally how social dialogue could be improved in Germany a number of respondents made reference to European developments. It needs to be noted, however, that the majority of interviewees had a very limited knowledge of European employment law. One respondent even indicated a certain degree of apprehension concerning the spread of European legislation, indicating that national traditions have proven their worth over many decades. It was suggested:

For this reason we would be well advised to leave them how they are. (Personnel Manager, Industrial Company)

On the other hand, though, one manager was in favor of expanding the influence of European employment law, in particular giving the European Works Council more power (EWC):

It [European Works Council] does not have a sword. It does not have the means to place management under pressure... If we really want to have co-determination at a European level then I have to give this committee far more rights... It makes sense to have an EWC where I can raise this issue and where I can reach an international agreement covering the affected employees instead of trying to find out in each country who you have to negotiate with. It is a long process [individual national negotiations]. The current EWC can only be considered as having reached an intermediate stage. Otherwise the only thing we will be left over with is hot air. (Personnel manager, Bank 1)

In sum, although German HR managers generally portray German social dialogue in a positive light, they acknowledge that the ever changing nature of business requires constant improvements in the sustainment of Modell Deutschland. In particularly, an improvement in the skills sets of ERs, specifically non-WC officers, would help contribute to a speedier implementation of business strategies. Concerning Europe,

HR respondents' knowledge of EU measures to promote social dialogue remained scarce. However, in contrast to other EU member states this could be put down to the possible superfluous nature of European social dialogue.

6.5 Discussion: Expectations of German Employers on ERs' Roles, Attitudes and Competences

Historically, German social dialogue is the bedrock of employment relations at company level, HR managers and their employee counterparts can call on a legal framework that promotes co-operation between both parties spanning nearly a hundred years. HR managers are conscious that an inability to reach compromises, even in situations where the balance of power is currently in their favor, can have negative repercussions at a later date as ERs are legally empowered with strong co-determination rights. In turn, German co-determination law holds ERs accountable for their actions, in particular the need to represent the interests of employees and those of the company. It would be a mistake to assume that Modell Deutschland is bereft of conflict, however. On the contrary, both parties accept the prevalence of conflict and for this reason are committed to jointly managing disputes.

The HR managers interviewed, managers who work on a daily basis with WCs, generally depict ERs as competent and committed to resolving conflict situations. There prevailed an acknowledgment on the part of most managers that ERs have to "rattle their sabre" occasionally, especially half-year before WC elections. Such actions are accepted as necessary, a means whereby WCs demonstrate to their constituents that they are not in management's pocket. Relations with ERs soon return to their old state of equilibrium once the WC officers have been re-elected.

Finally, many factors have been referred to in explaining, relatively speaking, how Germany has fared quite well in the face of the current financial crisis compared to the rest of the EU. Moreover, HR respondents referred to the importance of social dialogue in dealing with the economic downturn. It was confirmed that once employers and ERs comprehended the severity of the financial crisis they proceeded to jointly manage the situation, introducing various flexible working time arrangements to reduce the working week or in severe cases drawing-up of social plans to try and alleviate the consequences of unemployment.

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Chapter 7

Management's Perceptions of Social Dialogue at Company Level in Italy

Giovanni Passarelli

7.1 The Context: Industrial Relations and Collective Bargaining in Italy

7.1.1 *The Main Characteristics of Collective Bargaining in Italy*

Italian industrial relations are characterized by a low degree of 'legal institutionalization' (Baglioni 1998; Cella 2009; Napoli 1998). Legislations and the state have a limited role in the regulation of collective bargaining, conflict and union representation.

Italian industrial relations have been poorly institutionalized, and not sufficiently mature when compared with those of other European countries. For a long time, the perception was that the main problem has to do with the Italian unions' militancy and political divisions and with their unwillingness to compromise on a much-needed policy of centralized wage moderation. The absence of a clear set of agreed-upon rules has also been frequently singled out as a significant factor. The failure of national agreements in the early 1980s, and the decentralization of collective bargaining which ensued, provided empirical support for these critical views.

In the early 1990s the situation of Italian employment relations changed dramatically. In 1993, the architecture of collective bargaining was thoroughly reformed and the links across bargaining levels became much more rational and institutionalized than they had ever been.

The tripartite agreement Protocol of July 23rd, 1993, represents a kind of 'constitutional charter for industrial relations', a so-called 'basic agreement' (Alacevich 1996; Cella and Treu 2009), which formed the basis for subsequent accords. It established a new institutional framework for income policies, bargaining

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structures and procedures, worker/union representation, employment policies and measures to support the production system.

The Protocol defined a two-tier bargaining structure, setting out that collective bargaining can legitimately take place at national-sectorial level and at company level. Alternatively, bargaining can take place at territorial level to cover a particular district, province or region.

The relationship between the two levels is based on the fundamental principles of (a) coordination, (b) specialization (avoiding overlap), and (c) derogation (only for the workers).

According to these principles, the national-sectorial level establishes minimum rights and standards for the whole workforce, giving social partners the ability to improve them through a second level of collective bargaining. The articulated system provides a controlled and coordinated decentralization. The national-sectorial level determines the modes and spheres of action of the second level of bargaining. Sector-based agreements are entrusted with establishing the issues with which decentralized bargaining is allowed to deal.

As in other European countries, the Italian collective bargaining system has come under pressure in recent years. There are increasing calls for greater decentralization, including wage setting, in order to meet companies' competitive needs and to allow companies to overcome temporary economic difficulties. Moreover, according to many scholars, the introduction of an efficient system of second-level bargaining could increase labor productivity, which is particularly low—and declining—in Italian firms.

This increasing pressure has led to a tripartite agreement partly reviewing the norms of the Protocol of 1993. In 2009 a number of employer associations, including the General Confederation of Italian Industry (Confindustria), the Italian Confederation of Workers' Trade Unions (CISL) and the Union of Italian Workers (UIL) signed the Framework Agreement for the Reform of the Collective Bargaining System (FARCB)¹.

The most important changes compared with the system established by the 1993 agreement are:

- Industry agreements now run for 3 years, covering both pay and conditions, rather than the two years for pay and 4 years for conditions, as set out in the 1993 framework;
- Pay increases in industry agreements are no longer linked to the forecast inflation rate, but to the forecast European consumer price index for Italy, excluding energy consumption. Any differences between the forecast and actual inflation should be made up for within the 3-year period of the agreement. Productivity improvements are now only to be taken account of in company level bargaining, which the government is encouraging through tax incentives. Where there is no company-level bargaining, employees should receive extra payments through a wage guarantee element (EGR -elemento di garanzia retributiva), to be agreed jointly by the two sides, and paid at the end of the three year period.

¹ Accordo quadro: Riforma degli assetti contrattuali, 22 gennaio 2009

- The negotiating timetable has been changed: the unions must submit their claim six months before the end of the agreement and the employers must respond within 20 days; strikes are prohibited during the last six months of an agreement and in the month after it runs out.

The General Confederation of Italian Workers (CGIL) refused to sign the agreement, and campaigned against the change. CGIL's major criticism was related to the protection against inflation, which was seen as less than that provided by the 1993 agreement, as well as the fear that the new arrangements would undercut industry-level deals. The text of the agreement signed in April 2009 makes it clear that the greater decentralization of bargaining is seen as a mechanism to "re-launch a growth in productivity and therefore of real incomes."

In 2011 the relations among the main trade unions confederations appeared to be improved by an agreement that all of them signed in June 2011². This set out clear rules for company-level agreements, of which the "development and extension" were seen as "a common objective" of all the signatory parties. These company-level agreements can "set out specific terms modifying the regulations contained in the national collective agreements, within the limits and in line with the procedure that the national company agreements themselves permit", as stated in the text of June 2011. In other words, the terms of the industry agreement reached at national level can be improved or worsened provided that this possibility has been allowed for in the industry-level agreement itself. The general framework also laid down the rules on how company-level agreements are to be approved.

The agreement, thus, marks a very important step forward as it (a) retrieves the unity of the trade union, (b) strengthens second-level bargaining as a factor of competitiveness based on the enhancement of work, and (c) underpins workers' protection.

7.1.2 Historical Development of Industrial Relations

Since the second post-war evolution, the system of industrial relations and collective bargaining in Italy has been closely linked to the evolution of the political system. In the past, the three major trade union confederations had a clear political affiliation. The Confederazione Generale Italiana del Lavoro (CGIL) was very close to the Italian Communist Party (PCI), the Confederazione Italiana Sindacati dei Lavoratori (CISL), created by trade unionists of Catholic inspiration, was very close to the Christian Democrats (DC), and the Unione Italiana del Lavoro (UIL) was closer to the Italian Socialist Party (PSI). Starting in the nineties with the disappearance of the parties' reference, this categorization is no longer appropriate, although cultural references of origins are still valid. The weakening of the link between trade unions and political parties has contributed greatly to the overall reorganization of the Italian political system, particularly since the nineties.

² Accordo confederale fra Confindustria e CGIL, CISI and UIL 28th June 2011

In the fifties, collective bargaining was characterized by centralization, due to (a) the interest of the employers' association to tie the labor costs of the most dynamic sectors to that of backward sectors, such as agriculture; (b) the lack of trade union structures necessary for decentralized bargaining, because employee representation at company level was absent and, when present, ineffective; and (c) CGIL looked at the development of decentralized bargaining with suspicion, fearing that decentralized structures had been able to create company unions or would become too independent and this would jeopardize the representation of the working class by the Communist Party (Cella 1976).

The sixties were the period of the "economic boom" and major changes in the political framework and industrial relations. The consolidation of the Fordism model of production in large enterprises pushed the unions to pay more attention to the negotiation of working conditions at the company level. The contractual dynamic accelerated, in particular the sectorial and industry bargaining, driven by labor market conditions in favor of the trade unions initiative (Cella and Treu 2009). Company-level bargaining was recognized and institutionalized. It was reserved for the competence to deal with the same matters of national contract. The two-tier bargaining structure, national and company level, were connected through a mechanism for the settlement of disputes. The number of company supplementary agreements increased enormously, regulating a wide range of themes and innovative institutions which then extended to the national level. To give some examples, the regional pay scales were abolished and equal wage increases were developed for everyone, improvements of the workplace health and safety conditions, and reducing the pace and duration of work time.

The centrist political framework which dominated the fifties, lost its power. The country changed; the policy framework needed to be broader, especially in order to answer the questions emerging from the world of work. The political framework opened to the left, the Socialists entered the area of government, after becoming independent from the Communist Party. It opened the era of the center-left and, despite its limitations, it marked an important political, cultural and social progress. This indicated the first attempts to plan the lines of an economic policy, towards which the CISL showed interest, because they believed that the union shouldn't limit itself to the distribution of income, but also should intervene in the processes of accumulation, savings, investment and development of consumption.

The late sixties and early seventies were characterized by strong changes in labor relations. In the fall of 1969, massive labor struggles took place in the factories, ushering a period of violent conflict, later known as the "hot autumn". The great union mobilization was determined by the expiration of labor contracts, especially for the category of metalworkers. In this period, the workers' movement were allied to the student protests, who claimed a generalized "right for education" for all social strata. The combined action of the students and workers' movement pushed trade unions to take the lead of the protest movement. In many industrial plants, particularly in the metalworking industry, the three trade union confederations were forced to join. In 1972, the three major confederations came together establishing the United Federation (CGIL, CISL and UIL). The United Federation didn't replace

the old trade unions, but created a closer connection among them through various coordination structures (Lange and Vannicelli 1982).

With the eighties came the triumph of the free market, the predominance of economic policies inspired by neoliberalism, with its greatest champions in the governments of Ronald Reagan in the United States, Mrs. Thatcher in Britain, and the emergence of the Italian Socialist Party (PSI), after the passage of the Communist Party (PCI) to the opposition. This meant the destruction of social protections and marginalization of trade unions. In Italy, on the economic level, the scene was dominated by inflation above 20%, with a heavy international recession and the consequent huge increase of unemployment. Companies restructured and renewed themselves at an accelerated pace, there was a growing surplus of labor, and wage guarantee fund became a welfare monster resources' consumer. Under increasing pressure of the political parties, the margins of unions autonomy were reduced and in 1984 a vertical split of the United Federation produced two main unions movement, on the one hand the communist component, and on the other hand, CISL, UIL and the socialist component of the CGIL.

In this scenario, three large tripartite agreements were signed. The first one was signed in 1983 with the goal to reduce inflation through a cooling of the wages' dynamic, induced by wage indexation. The second one was signed in 1984 with the lack of unitary agreement on partial sterilization of the wage indexation. It marked a profound change of scenery, culminating in the referendum for the abrogation of the wage indexation in 1985 with a successful result. After 1985 a new phase in industrial relations opened, which found its culmination in mid- nineties with the tripartite agreement of July 1993. It institutionalized a new framework for the contractual structure: change the bargaining procedures and workers representation in the workplace, employment policies and measures to support the production. This agreement can be seen as the first effort to create a systematic structure for the workers representation and collective bargaining.

In the early 2000s there was an unsuccessful attempt to reform collective bargaining (Cella and Treu 2009). CISL and UIL asked for a structural reform to give more space for company and territorial decentralized bargaining, which should facilitate the recovery of wage dynamics. CGIL, instead, continued to sustain the importance of national bargaining. The tensions lead to the rupture related to the signing of the agreement with the government on the labor market in 2002 (Pact for Italy). Concerns about the adjustment of the wages to inflation did not seem to be shared by the center-right government (second Berlusconi government). In 2007 the center-left government (second Prodi government) takes the business of promoting consultation, government and trade unions will come to a trilateral agreement relating to the welfare, the labor market and pensions. The agreement was harshly criticized by some unions, particularly from Italian workers Metalworkers' Federation (FIOM) affiliated to the CGIL. In 2009, the government and the social partners, with the exception of the CGIL, signed an agreement for the reform of collective bargaining.

At the end of 2011 and the first half of 2012 two major reforms in the pension system and the labor market were introduced. Neither of the two were negotiated

with the social partners. The pension reform was included in the first measures taken by the Government Monti in early December 2011. It was defined unilaterally by the government and harshly criticized by the three main trade unions. With regard to the reform of the labor market, there have been some discussions with the social partners, but no agreement was reached prior to the submission of the measure to parliament. Some elements of the reform were discussed with the social partners only after submitting the reform in parliament. However, there was no wide-ranging negotiation, as in the 90s.

7.1.3 *Workplace Representation*

The Workers' Statute of 1970 gives the workers the right to organize a plant-level union representation structure (*Rappresentanza sindacale aziendale*, RSA). The tripartite agreement of July 1993 introduced—in addition to the RSA—a so-called unitary workplace union structure (*Rappresentanza sindacale unitaria*, RSU). This body is elected by all employees, but representatives are usually elected through trade union lists. Therefore, it includes features of both works councils (the broad active electorate) and trade union bodies (almost exclusive inclusion of trade union representatives). In general, it can be associated with trade union bodies. The establishment of RSUs confirms the traditional system of single-channel representation in Italy, whereby union and employee representation are entrusted to a single body, as opposed to dual-channel systems where union delegates operate alongside works councils.

An RSU can be set up when there are more than 15 employees in the workplace. The national level agreements for the private and public sectors provide minimum numbers (3 members until 200 employees and 6 until 500 employees and then 3 more members every 300 additional employee) but these can be improved in industry and company agreements.

Two-thirds of the representatives in the RSU are elected by the workforce (both union and non-union members); one-third of the positions are reserved for the trade union organizations affiliated to the signatory organizations of the sectorial national collective agreement (*Contratto Collettivo Nazionale di Lavoro*, CCNL) applied in the company. RSUs, when present, have all of the rights attributed to RSAs by law or collective agreements (1970 Workers' Statute rights, as well as rights regarding information and consultation). Since 1993, RSUs have been able to negotiate at plant level on issues that are delegated from the industry-wide level.

However, despite these general agreements, RSUs are not universal. There are some sectors -including banking and insurance- where they are very rare. If RSUs have not been set up it is perfectly legal for previous systems of trade union representation -which can vary from company to company, depending on the agreement signed- to continue, although this is also not common. However, whatever the form, it is trade unions that play the central role in workplace representation in Italy. Although RSUs are elected by the whole workforce, they remain primarily union committees.

Another important element is the existence of joint committees, where company and employees are formally represented. They are intended to prepare the groundwork for collective bargaining by providing technical support.

7.2 The Current Situation of Employee Representatives. What Do Employers Say? Conclusions of the Interviews

In this section we present the main results of the interviews with Human Resources (HR) managers on the profile of employee representatives in the company (ERs).

The Structure of Worker Representation In Italy, the unions have a single channel of representation of employees in the company. In addition, the minimum number of members of the RSU is established by the Collective Agreement. In general, HR managers believe that the number of members of the RSU is adequate. They also believe that joint committees, composed by company and employees representatives, are essential for social dialogue, as they represent a place for discussion on topics which are then discussed at the negotiating table. They prevent and settle disputes between employers and employees.

Organizational and Contractual Innovation Several HR managers think that the representatives of the workers are scared of change, of innovation. The representatives of some unions are less open to change than others, in particular, small unions (for example COBAS³) with whom it is more difficult to reach an agreement on the contractual innovations.

Competencies HR managers believe that a deep knowledge of the issues under discussion is crucial to the dialogue between the parties and achieving a good agreement. They believe that ERs have good general skills although they lack a broader view of the problem, a vision of the socio-economic context in which the company operates.

ERs are very weak regarding competencies, especially in keeping up with the times, understanding the company strategy and market change (HR manager, Metal sector).

Time and In-Depth Analysis The time spent and deepening of topics under discussion are two fundamental elements to achieve a good agreement.

Any change needs to be prepared, discussed, and then we can confront each other easily; but at the beginning they [ERs], are always close to any change (HR manager, Energy sector).

³ The **Confederazione dei Comitati di Base** (COBAS) is a rank and file trade union. It was formed in the late 1980s by members who were dissatisfied with the leadership of the three main Italian confederations (CGIL, CISL and UIL).

Time seems a fundamental resource. Taking a deeper look in the issues takes time but it helps to reach agreements without strong conflicts.

Trust Generally, the relationship of trust between HR managers and ERs is quite high, above average. However, most of them make it clear that the relationship of trust is better with representatives of major trade unions, with which the exchange is continuous. Conversely, the relationship is more problematic with smaller unions, such as the COBAS, because they are more ideological.

Obviously, we are talking about the representatives of the central trade union confederations (CISL, UIL, CGIL), then there are COBAS [Rank-and-file committees], in this case trust falls rapidly.... (HR manager from the Bank Sector).

Industrial Relations Climate Managers perceive the climate of industrial relations in their company as good. The dialogue and cooperation seem to be the prevailing elements in the confrontation between the parties. The following sentence is representative of the business climate in the negotiations:

The attitude of both parts to the dialogue and confrontation, the openness of the employee representatives was essential to come to an agreement. We don't think there are other roads besides dialogue and confrontation (HR manager, Energy Industry).

Although in the metal industry where the FIOM has not signed the contract, the company climate is more confrontational:

At moment in the metalworking industry it is very difficult to dialogue with FIOM [Metalwork trade union linked to CGIL] which did not sign the national collective agreement, so you can imagine what it means in a metalworking factory—where the majority is still from FIOM... last year I have really had an 'annus horribilis': They keep stuck the factory. The FIOM demanded the same labor rights despite not having signed the contract (HR manager, Metalworking industry).

Differences Among Sectors The main difference is between the private and public sector. The Italian government reached an agreement with unions on the 4th of February of 2011 regarding productivity-linked pay increases in the public sector. The agreement also covered negotiations for a framework agreement on industrial relations in the public sector until 2012, as collective bargaining was frozen until then. Due to the financial intervention package in July 2010, the renewal of collective agreements in the public sector was suspended from 2010 to 2012. The pay of the public sector workers was also frozen. At present, pay in the public sector is frozen as well as the employees' turnover and the renewal of collective agreement.

It is evident that due to the limitations imposed by legislation, negotiating space in the public sector is very limited:

Due to the change in the regulatory framework the renewal of collective agreements, pay and turnover are frozen. At present, most of the controversies, 60%, are request of change of the type of contract, from fixed term or seasonal to open-ended contract (HR manager, Transports' sector).

7.3 Perceptions of Employers on ERs. Results of the Survey

The results presented in Fig. 7.1 are based on a survey amongst 614 European HR managers from eleven different European countries. T tests were conducted to analyze differences between Italian and the rest of European HR managers participating in this study.

Figure 7.1 presents the results of the comparison between the Italian HR managers and those of other eleven European countries. The significant differences in four variables have been circled. First, the variance of competencies and attitudes (*Diversity in competencies and attitude of ERs*) among Italian ERs seems to be smaller than European ERs ($M=2.94$ versus $M=3.38$). The level of personal conflict and friction (*relationship conflict*) between management and ERs in Italy ($M=2.01$) seems to be lower than the average of other European countries ($M=2.29$). However, Italian ERs during the conflict seem to be more cooperative (*Cooperative conflict management by ERs*) ($M=3.00$) than the European average ($M=2.76$). Finally, the cooperation of ERs for resolving conflicts seems to be reflected in the relative effectiveness (*Conflict management efficacy*) with which management and ERs resolve conflicts in Italy ($M=3.35$, versus $M=2.98$).

The comparison between Italian and European ERs shows that Italian ERs are more cooperative during the conflicts, in spite of the level of personal conflict - on average higher than Europe-. This cooperative attitude leads to a more efficient resolution of conflicts.

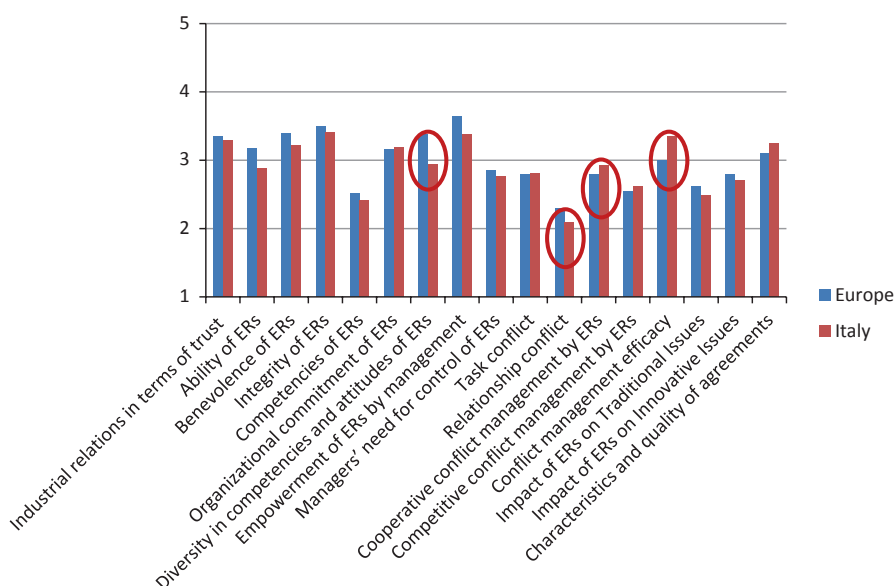


Fig. 7.1 Mean scores of main variables for Italian and European HR managers

7.4 Suggestions Given by Employers to Improve Social Dialogue in Italy

The interviews reveal a certain capacity for dialogue between HR managers and ERs at company level, although in some cases there are some difficulties due to the lack of a broader vision by the ERs, extended to the context in which company operates and the opening to contractual and organizational innovations. In the latter case, the lack of openness is often related to the different positions expressed by unions. Both difficulties can be overcome through better training of ERs and through the deepening of arguments.

Training Several HR managers think that a wider knowledge beyond the strictly trade union issues would help to better understand the changes of the market and corporate strategies, and this could encourage social dialogue in the enterprise. Consequently, many managers think that a continuous update on issues such as the labor market, labor law, and international economics favor the dialogue between the parties.

I think it is much better for a company to have a proficient counterpart. Expert ERs who display a proactive behavior are also good for the company. In contrast, weak trade unions and ERs are more inclined to create conflicts and it doesn't help neither trade unions nor company (HR manager, Transport sector).

Innovation Change can only happen if you are dealing with an open counterpart. Several managers think that a more careful selection of ERs would help. Trade unions should choose their candidates better, they should choose people with a natural inclination to cooperation and negotiation, open-minded and with a high level of proficiency.

Consistency and Informal Contact The relationship of trust between HR managers and ERs can be improved through consistency in behavior and informal contacts

These activities are mainly pertaining to the field of informal relationships, at the same time; trust is based on the achievement of concrete results. The achievement of concrete results feeds mutual trust (HR manager, Financial sector).

Another important element in building a relationship of trust between HR managers and ERs are the bilateral committees in which the comparison is made on specific issues and informally

Trust climate could be improved giving to ERs the chance to intervene on specific topic with their proposal, increasing their participation. Managers' goodwill in this case is not enough; we need to write joint protocols establishing shared rules of play. We can talk about employee's participation as much as we want but if there isn't a [Joint] Committee (HR manager, Energy sector).

Decision Making Process HR managers believe that, in general, it is very difficult to involve trade unions in decisions on the strategies of the company. On the other hand they think that ERs must have a lot of influence in decision-making on the organization of work processes.

7.5 Discussion and Expectations of Italian Employers on ERs' Roles, Attitudes and Competences

The Italian system of industrial relations is characterized by a growing rate of decentralization, which opens space for cooperation among social actors at plant level. Decentralization is seen as mechanism to improve productivity. Productivity improvements are now only to be taken account in company level bargaining. Therefore, company-level bargaining open space for cooperation among employers and workplace trade unions on improving working conditions.

Qualitative interviews and surveys shows a high level of social dialogue at company level, even if there are some contradictions due to the different approach to industrial relations between trade unions confederation and rank and file trade unions.

There is a general opinion among Italian HR managers that there's a need for more competent counterparts, less confrontational and more open to change. The ideological orientation that shapes the ERs' profile in Italy, especially in the case of ERs who are members of small trade unions, is characterized by confrontation with management. In this regard, HR managers say it would be important to attract competent, younger and open-minded people for this role, and pay more attention to the selection process.

I would like to see the ERs being more aware of the overall context in which the bank operates, a greater understanding of how the labor market works, less prejudice against the employer, or ideological positions, when we sit at the negotiating table. In other words, more open to change and innovation (HR manager, Banking sector).

Training ERs is an aspect which is strictly linked to the previous one. Companies should invest more in the training of ERs because HR managers believe that competent ERs are more open to change and this would help a constructive social dialogue within the organization. However, in the perception of the HR managers training ERs is responsibility of the trade unions:

I would invest more on training because the more competent they are, the more ERs are able to read the situation and its importance. Currently, the company invests on the specific themes, such as workers safety. Trade unions have their training schools, which are very good (HR manager, Transports sector).

The company trains their employees through the Joint Committee. This Committee can also train ERs (HR manager, Energy sector).

ERs don't receive any company support for improving their competencies. I mean a specific program for them. Trade Unions support their representatives through seminars (HR manager, Metal sector).

It is clear that companies do not see ERs training as their responsibility, even if they are aware of the importance of competent ERs for the quality of agreements and social dialogue.

Regarding the attitudes of ERs, HR managers would like ERs to have a higher degree of openness towards change and to be more independent of their trade unions. Particularly, they see that ERs who are members of small Trade Unions are closed to any organizational or contractual innovation.

We find strong rigidity. This is due to various factors. Most of the time this rigidity is due to the political line of the trade unions of which ERs are members (HR manager, Banking sector).

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Chapter 8

Industrial Relations and Works Councils in the Netherlands—Results from Interviews and a Survey among HR Managers

Aukje Nauta

8.1 The Context: Industrial Relations in the Netherlands¹

The Dutch labor market is growing more and more flexible. Over 10% of the workers are currently self-employed, whereas this percentage used to be 7% in 2001 (cbs.nl). Being self-employed is not a free choice for all workers, especially not for those who lack assignments and therefore income—the so-called outsiders on the labor market. Outsiders are also those workers who would like to have a permanent job, but can only get a temporary one. New and positive ways of flexible working are the so-called new working arrangements, in which employees work ‘any place, any time’. These and other developments have a high impact upon industrial relations in the Netherlands.

Many critics of today’s Dutch employment relations believe that new arrangements are necessary, in order to close the gap between insiders and outsiders on the Dutch labor market. To do so, Dutch government, together with the ‘social partners’ (trade unions and employer organizations) negotiated a ‘social agreement’ in 2013, in which they made all kinds of arrangements to improve sustainable employability, job transitions, as well as transitions from unemployment to paid work.

In this chapter, we will describe and illustrate developments such as above in the current Dutch industrial and employment relations. Next, we will describe the results of an interview study among ten HR managers of diverse Dutch organizations, about their perceptions of employee participation within their company, as it takes shape through the works council. Finally, results of a survey among HR managers on employee participation are described.

Employment relations are highly diverse in the Netherlands of today, ranging from the temporary worker who works only for 1 day during an event that she has

¹ This chapter is strongly based upon the first chapter of Nauta (2011). *Tango op de werkvloer. Een nieuwe kijk op arbeidsrelaties*. [Tango on the shop floor. A new view on employment relations.] Assen: Van Gorcum.

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to cater, to the civil servant who expects to work for another 15 years at the same municipality, until he turns 67. From bankers who strive for ever-increasing bonuses and hop from employer to employer, to employees who feel very loyal to one organization for years and years. From highly educated management trainees who have and expect high-quality development opportunities, to machine operators who perform the same routine job for years and years. From caregivers who do what they are told by their bosses, to knowledge workers who craft their own job. Moreover, jobs are constantly changing, not only their content, but also regarding the contract. Due to technological developments, jobs appear and disappear with a much higher speed than a decennium ago. As a consequence, employers find it hard to employ people in permanent jobs. And even if people have a permanent job, it is not as stable as it used to be, before the economic crisis that started in 2008. Although the economy of the Netherlands within Europe is relatively stable and considered relatively strong, the unemployment rate has reached an all-time high of 8.8% in February of 2014 (cbs.nl).

There are a lot of so-called “outsiders” on the Dutch labor market, such as unemployed people, people with disabilities, lowly educated people who are forced to hop from one lowly paid temporary job to another. Much unemployment is “hidden”: an estimated 1.2 million Dutch people wanted to work in the third quarter of 2013—which is 11% of all people between 15 and 65 years (cbs.nl)—but cannot find a job due to their disability, chronic illness, age, or simply because their unemployment status makes employers believe that they are unfit for work. Muffels and Wilthagen (2011) show that lowly educated temporary workers get paid 35% less compared to workers in permanent jobs, even after controlling for age, education, gender, sector and duration of one’s employment contract.

In the Netherlands, the legal arrangement of the employment contract is already more than 100 years old. Legal job arrangements were very simple and short until the Second World War (Jacobs et al. 2009). Over a century ago, labor used to be very clearly defined, because only a couple of hundred thousands of people were employed. The remaining people were self-employed. After World War II, the Dutch welfare state arose, and so did the legal arrangement of the employment contract, including laws on dismissal.

Today, many Dutch employers perceive labor law, including collective labor agreements (CLA’s), as too complex and rigid, especially compared to the UK and the US. Employers are searching for ways out, for example by contracting temporary self-employed workers. Especially in the construction sector, many employers contract self-employed workers, in order to work flexibly and efficiently. By using temporary contracts, franchising, outsourcing, and pay rolling, employers reduce labor costs.

Dutch employment relations on the shop floor are embedded in a collective system of industrial relations. Decisions made by social partners and/or government have consequences for policies on lower aggregation levels, such as sectors and organizations. Decisions made at these so-called meso-levels have an impact upon behavior on the shop floor. For example, many employees above the age of 55 years are used to ask each other ‘how many more years they have to work, until

Table 8.1 The Dutch ‘Building of Employment Relations’ (Nauta 2011)

	Forms of dialogue	Outcomes
Fourth floor	European social dialogue	EU-directives
Third floor	Government, trade unions and employer organizations	Laws, central agreements, advises
Second floor	Sectors, companies, unions and employer organizations bargain for collective agreements	Collective agreements
First floor	Management, HRM and works council make HR policies	Human resources management policies and practices
Ground floor	Dialogue and negotiations between individual employees and their superior	Agreements about time, money, performance and development

retirement’. This ‘habit’ is a consequence of all (pre-)pension arrangements in the Netherlands that became normal during the eighties and nineties. It is only since recent years that retirement age is increasing again, due to new laws that prohibit pre-pension arrangements.

Nauta (2011) uses a metaphor for the way in which Dutch employment relations are institutionalized and regulated: the so-called ‘Building of Employment Relations’ (see Table 8.1). This ‘building’ has five ‘floors’, ranging from the micro-level of employment relations at the shop floor, to the macro-level of industrial relations at the European level.

On the *fourth* floor, you will find the European social dialogue, which is currently gaining importance. This social dialogue refers to discussions, consultations, negotiations and common activities performed by European employer organizations and trade unions. Some of these consultations are bipartite (only employer organizations and trade unions), others are tripartite (with the EU also at the table). At europa.eu, you can find common documents of European social partners, as well as reports on industrial relations in Europe. For example, there is a social dialogue toolkit with recommendations to social partners who want to negotiate fair working conditions. Furthermore, there are European directions—a legal instrument of the EU, such as the direction on informing and consulting employees (Direction 2002/14/EC). This direction states that employers need to have arrangements for informing and consulting their personnel, fitting national laws and industrial relations. Information and consultation should be about economic, financial and strategic developments, as well as employment developments and decisions that result in large changes in the work force or contractual employment relations. Moreover, this EU-direction states that employer and ERs should work together in a cooperative atmosphere, in which they pay attention to each other’s rights and obligations. Given the open economy and the many multinational companies present in The Netherlands, this European level is important.

On the *third* floor of the Dutch Building of Employment Relations, you will find the tripartite and bipartite structures of consultation between employer organizations, trade unions and sometimes also the Dutch Government. For example, these three partners negotiated the ‘Social Agreement’ in 2013, in which they took 68 measures to improve the functioning of the Dutch labor market. Specifically, the

Netherlands has two institutions, the Social and Economic Council (SER), in which employer organizations, trade unions and independent members negotiate advises to the Dutch government, as well as the Labor Foundation (STAR), in which employer organizations and trade unions negotiate short-term agreements.

The SER advises the government on a broad social-economic spectrum. The SER contains 11 representatives of employers, 11 from trade unions and 11 independent members, appointed by the Crown: these are social-economic experts who reflect the political field in the Netherlands. The STAR does recommendations to trade unions and employer organizations with regard to working conditions within companies and sectors. Next to that, there is consultation between the government and the social partners. Especially during tough times, they negotiate large agreements, such as the social agreement in 2013, the pension agreements in 2010, 2011 and 2013, and the reduction of pre-pension arrangements in 2003.

An important role on the *second* floor of the Building of Employment Relations is played by the CLA (Huiskamp 2003). CLA's are negotiated by professional negotiators that represent the employees and employers in a sector or company. These negotiations do not always run smoothly. Strikes are sometimes—but not very often, compared to other European countries—the consequence. Around 80% (6.1 million) of the Dutch employees are covered by a CLA (ser.nl), but this differs between sectors. In relatively new sectors, such as business services and IT, there are few CLA's. But in traditional sectors such as manufacturing, construction and the central government, almost all employees are covered by a CLA. This is due to the many so-called branch CLAs in these traditional sectors: these are CLAs that apply to a whole branch—instead of to one company only. The Dutch law declares sector CLAs as generally binding for all employees within the specific sector that negotiated the CLA. Thanks to this law, a minority of non-committed employers cannot undermine arrangements that are negotiated by the majority. There are over 700 CLAs in the Netherlands, of which 200 are branch CLA and over 500 are company CLAs. Pay seems the most important topic of CLAs. However, CLAs contain much more arrangements, such as working hours, training and education opportunities, working conditions, employee benefits, opportunities for promotion, et cetera. More and more CLAs contain arrangements on employability and sustainability. The many arrangements that CLA-negotiators make, have led to extensive CLAs, with sometimes hundreds of pages.

On the *first* floor of the 'Dutch Building of Employment Relations', the employer (CEO and/or HR director), together with the works council, consult each other on organization policies, especially human resources management (HRM). The works council is an important tool for equalizing power relationships within the company. Without a works council, employers would be able to do whatever they like, even if it is against the interests of employees. The Dutch Law on the Works council (WOR) helps to equalize employment relations at the company level. This law requires companies with 50 or more employees to install a works council. The law exists since 1950, and has been changed a couple of times since then. The law is followed reasonably well: 71% of the Dutch firms with 50 or more employees has a

works council (Visser et al. 2012). HR policies within companies consist of several rules, procedures, instruments and tools that complement the CLA. For example, most companies have practices concerning recruitment, selection, promotion, pay, performance assessment, individual options with regard to employee benefits, training and education, etcetera.

It is the *ground floor*—the shop floor—where employment relations take shape on a daily basis. Interpersonal behavior between employees and their superiors shape their mutual relationship. Employees and superiors talk to each other, negotiate, argue, and avoid each other sometimes. They have formal conversations, such as performance appraisals or career conversations. They have informal talks as well, often next to the coffee machine. Some conversations take place on the team level: so-called work meetings. Work meetings can be a supplement and/or a complement to formal employee participation, which takes place in formal works councils. Goodijk and Sorge (2005) distinguish between direct (work meetings) and indirect (works council) employee participation. During work meetings, employees have a direct voice with regard to team policies (but only if the team leader allows voice). Ideally, the institutions that shape industrial and employment relations, such as HRM, works councils, organizational strategies, CLAs, national agreements, and even European directives, are facilitating employment relations at the shop floor. Although this may seem obvious, it appears that negotiators at higher levels do not always realize which consequences their agreements have for the shop floor. For example, arrangements such as extra holidays for older workers may seem fair, but in practice, they often lead to decreasing employability of older workers. Hence, an open social dialogue between employers and ERs is important at all levels of the ‘Building of Employment Relations’, to discuss and foresee how specific measures will work out for behavior and practices at the shop floor within companies.

To give an example of the connections between the different levels of industrial and employment relations: in 2008 research has been performed to examine the effects of higher level decisions upon lower level practices in employment relations in the Netherlands (Beleidsdoorlichting Arbeidsverhoudingen 2008). During the autumn of 2002, national social partners recommended that pay should not increase more than 2.5%. During national negotiations in 2003 and 2004, social partners agreed that pay should not increase at all. These central agreements worked out as intended. In 2005, pay increases as agreed upon in CLAs were the lowest in 20 years. The decreasing trend clearly started in 2002 and accelerated after the agreement in 2003. Hence, central negotiators do have an impact on actual practices, although de-central negotiators still have much latitude to negotiate branch or company CLAs. The Dutch Social and Economic Council as well as the Dutch Labor Foundation are also influential. Due to the unanimity of their advices and agreements, they appear to have an impact on daily work practices (Jaspers et al. 2010). Dutch employees feel relatively secure, thanks to the Dutch system of industrial relations and the high level of trust between employers and employees. Collective labor conflicts are seldom in the Netherlands (Van den Berg and Van Rij 2007). Per 1000 employees, there were on average only 5.7 working days per year lost due to

industrial action in the period 2005–2009, which is much less than the average of the EU-25: 30.6 days.

The position of the works council is not very easy in many Dutch organizations. Research shows that a representative sample of Dutch employees and managers give a 6.4 and a 6.2 respectively on a scale of 1–10 for their satisfaction with the works council, which is a sufficient, but not a very high grade. Fourteen per cent of the employees, and 19% of the superiors, believe that the works council supports them effectively in designing work and working conditions (Ten Have et al. 2007). This implies that both employees and managers doubt the usefulness and necessity of the works council. In some organizations, management and works council try to innovate in employee participation. For example, in a health care organization with 1600 employees, the CEO once called the works council ‘outdated’, because works council members only discussed rules and procedures instead of substantial issues. After his rather provocative statement, works council members started a process of innovation. Together with management, they designed a new employee participation structure. They replaced the works council by three bodies: first, a supervising council of seven employees. And second, an orchestrating team of four employees and the CEO. This team decides on issues that are relevant for employee participation processes. Third, they implemented temporary project teams that address specific themes, for example new housing. This innovation resulted in a culture change: more dialogue at all levels, less distance between top management and shop floor (Van der Meer and Smit 2010).

Ideally, in all organizations, employee participation functions as in the above example, with on-going dialogues between the three stakeholders of Dutch employment relations: management, works council and trade unions. Management represents the company’s interests, the works council represents employees’ interests mainly, and the collective employees’ interests are represented by the trade unions (Sapulete 2013). Optimally, each party strives towards an integrative result with its own skills and responsibilities in the respectable fields. There is a good reason for the distinction between trade unions and works councils in the Netherlands. The members of the works council are chosen by employees and paid for by the employer. Therefore, the works council benefits from a good relationship with the employer, making it somewhat dependent. In contrast, due to its structure with independent union officials, the unions can afford to put pressure on the relationship with the employer (Nauta et al. 2008).

To summarize, the Netherlands has highly institutionalized industrial and employment relations, as illustrated by the Dutch ‘Building of Employment Relations’, in which the works council plays an important role. Although Dutch industrial and employment relations are quite peaceful—very few strikes—a serious threat of Dutch industrial relations is the current flexibilization of the labor market. The gap between so-called insiders and outsiders on the labor market is growing. Dutch government and central social partners are currently trying to close this gap with several measures. However, it is in the companies themselves where policies and practices also have to change. The works council can play an important role in these so-called social innovations, for example by setting up practices to strengthen the

sustainable employability of employees, and to open up the company for workers with difficult positions on the labor market (e.g. people with disabilities). This asks for open dialogue and constructive negotiations between management and works council. The next paragraph discusses some specific examples of social dialogue within Dutch companies.

8.2 What Do Human Resources Managers Say? Conclusions Drawn from the Interviews

8.2.1 *Overall Evaluation of Company Level Social Dialogue*

We interviewed ten HR managers of mostly large organizations, one intermediate and one small organization, carried out between February and October 2013. Interviews lasted for about one hour. Note that the results are specific for these ten organizations. They function as an illustration, but cannot be generalized to the overall Dutch system and practices of employee representation.

Overall, the HR managers appeared to be satisfied, and sometimes even very satisfied with the quality of the social dialogue with their ERs. Table 8.2 presents an overview of the general evaluations that the managers gave with regard to the company level of social dialogue.

Positive aspects that managers mentioned are: early involvement of works councils in decision making processes, works councils that are open and trustful, intense collaboration on specific projects such as employability, informal consultation, involving more employees than only works council members in decision making processes, and investments in innovations of social dialogue, such as tripartite dialogue on HR policies (employer, works council and trade unions).

However, employers see room for improvement as well. Specific issues that they mention are: works councils should contain diverse members, not only ‘old white male’, as to represent the workforce better; they should also contain more competent members, who are able to discuss strategic issues with management; social dialogue can sometimes be too time-consuming; current CLA’s seem unfit for the more and more dynamic future of work; sometimes, tensions and competition occur between works councils and trade unions. One of the organizations seriously suffered from ‘organizing’ by one of the trade unions. Unions use this method to build networks of employees and involve them in strikes and confrontational campaigns against their employer. By doing so, they hope to reverse the trend of declining union membership. During the time that we interviewed this company, they suffered from strikes and confrontational campaigns.

Below are some specific examples of the quality of social dialogue, and how dialogue actually takes place between employers and works councils.

Table 8.2 Overview of the general evaluations from managers in the interviews

Company	Overall evaluation of company level social dialogue
University 1	Employer perceives open debates with the works council, which is involved as early as possible in decision-making processes. Employer perceives the current works council as somewhat outdated: too little diversity within the works council (mainly old white men), too little communication between works council and employees (their rank and file)
University 2	This employer has a constructive and open dialogue with the works council, due to open attitudes of works council members, who are competent and trusting. Informal signalling of potential problems is part of this relationship
Manufacturing 1	Employer and works council are very much on speaking terms, and are collaborating intensively in a large project on sustainable employability of workers. But sometimes dialogues are somewhat too informal and time consuming, according to the employer
Food and drinks 1	Employer informally consults the works council every week, which builds a lot of trust. Employer continually strives for good employment practices and sustainable employability for workers. However, employer suffers from ‘organizing strategies’ of the trade unions
Food and drinks 2	Employer is satisfied with the current dialogue between management and works council, although he foresees a more cloudy future, due to employment arrangements (CLA and labor law) that are currently too inflexible
Bank 1	Employer recently introduced a new representation model, in which more employees are involved in employee participation, but spending less time on it. All works councils support this new model, which illustrates a high-quality social dialogue
Bank 2	Employer is nationally known as one of the forerunners in ‘co-creating’ collective labor agreements, in which many employees were involved. Employer perceives opposing interests between works council and trade unions, which sometimes hinders an effective tripartite social dialogue
Energy 1	Employer believes in the value of employee participation, because it improves the quality of strategic decisionmaking. However, he would like to increase the current quality of the dialogue with the works council, which is now too much focused on detailed, individual-employee-related issues, instead of strategic topics
Small Business 1	Employer perceives employee participation not as a right, but as an obligation for employees. Employer experiences better firm performance and more engagement, due to all employees (not only works council members) being involved in strategic decision making
Engineering 1	Employer has introduced a new form of social dialogue, in which the board, trade union and works council are mutually responsible for social policies. They strongly focus on “mature employment relationships”, with constructive dialogues between employer and ERs

For example, University 1 is currently involved in a process of seeking intensive cooperation with another university. Both universities organized a joint theme day where relevant policy topics were discussed. Key topics were identified and a program manager was appointed and mandated to structure the forthcoming co-operation. The program manager tried to characterize the cooperation by stating

that the individual rights of each works council would still be maintained. This led to a successful cooperation with proud members of the involved works councils.

There is a lot of trust between the board and the works councils. In situations where I cannot completely oversee a certain decision, or where some information might be uncertain, the works council is willing to trust me that it will all turn out right (Director, University 2).

Manufacturing 1 has a long history of employee participation. One of their plants used to be an independent company, who was the very first company in The Netherlands that implemented a works council by the end of the nineteenth century—in 1878 to be specific. Up till now, there still exists a strong consultation culture in this company. The relationship between management and works council is good, although this tends to vary per subject. Their HR director states: *‘Especially the central works council has high standards. Every odd year there is a competence development program for the works council in addition to on-going programs to improve meeting quality. Last year, there was a week in which a great range of social policies crossed the table’*.

The works council in Manufacturing 1 is very early included in decision-making processes. For example, when the company was outsourcing one of its units, the works council was involved in every step. The secret parts were covered with a so-called non-disclosure agreement. And in case of organizational changes or lay-offs, the works council is included in a very early stage, much earlier than the law requires.

Tension rises sometimes due to the internationalization of Manufacturing 1. The Dutch way of employee representation is perceived as a hassle, leading to friction. American and Chinese managers do not understand the Dutch mentality about employee representation. However, as Manufacturing 1 is Dutch by origin and policies, foreign managers will have to adapt.

In Food and Drinks 1, an example of the good relationship between management and works council is a recent management replacement. For compelling business reasons, the board had to change the composition of the management within a certain division. A procedure like this has to be approved by the works council, within a 4-week response period. It would have been tempting to bypass the works council. However, the works council agreed to a 1-week consideration under full embargo.

In Food and Drinks 2, members of the works council are engaged and committed to their task. They understand and respect organizational interests. For example: due to a centralization process, the financial unit that is currently located in a Dutch regional city will be moved to a city in Eastern Europe. The works council does not protest against this move although it leads to direct job losses. They rather see that their employer serves the remaining staff well and has a decent social plan. Management is constantly and informally in dialogue with the employees and the works councils. In this way, long advice trajectories are avoided and both parties have a direct say in the final solution.

Food and Drinks 2 has no culture of conflict. Over the last 10 years, no strikes or serious conflicts occurred. One example occurred some 6 years ago. It turned out that management and works council interpreted the collective labor agreement

differently. This resulted in a discussion about working hours and lunch breaks for the employees working in the supply chain. Finally, the works council and the management came together to meet with the company committee, a kind of mediation committee. In the end, the only request of the employees was to have an uninterrupted lunch break. The management agreed, although they demanded to closely monitor the situation and to be able to intervene if problems occurred.

Illustrative for the quality of social dialogue in Bank 1 is the hectic period in which this bank was in real crisis and had to merge with another bank. During the merger, the central works councils of both banks formed a delegation that—together—dealt with the merger successfully, thanks to frequent and open dialogues with the management. For the new long-term company strategy, management and works councils had workshops and sessions together, discussing the possible scenarios. The works council was involved with every step during 2-weekly meetings. Two years ago, Bank 1 decided to downsize, but informed the works councils too late. Hence, they were not amused. To solve this conflict, management apologized, thereby preventing escalation of this conflict.

Bank 2 also experiences a good social climate. This bank recently established an open dialogue, focused on common interests related to the future of the company. This means that management involves ERs in decision-making and policy changes as soon as possible. Sometimes, conflicts arise, for example in 2013, when the works council complained that too many secretaries were made redundant. As tensions rose, the HR manager tried to find a common interest during a constructive dialogue. After a day of consultation, a manager-versus-support-staff ratio was agreed upon and established. This example shows how conflict between works council and management is dealt with within Bank 2.

Bank 2 is nationally known as a forerunner in “co-creating” (i.e. integrative bargaining) the collective labor agreement (CLA). Both employer and trade unions focused on common interests instead of distributive bargaining. Surveys and discussion panels among employees were held to learn about the main interests of employees. It appeared that they valued a lengthened redundancy plan over and above performance-related pay. These two preferences made it directly into the collective labor agreement.

The director of Energy 1 perceives that the works council is more qualified in formal processes and procedures than in dealing with strategic topics, which is due, first, to the low expertise of ERs, and second, to the hierarchical culture—people are used to do what they are told instead of taking initiatives.

In Small Business 1, dialogue between management and works council, and in fact with all of their 110 highly educated employees, is very open and frequent. Every quarter of a year, management meets with all employees to discuss current strategic issues, including financial figures. Besides that, this company has both a works council, which focuses upon formal and legal issues, and a ‘Council of Contributors’, that is involved in all policy issues—for example, the purchase of new company cars, or the implementation of new training programs. The CEO of this company perceives employee participation not as a right, but as an obligation, because this is a perfect way for employees to learn management skills.

In Engineering 1, they installed a new form of employee participation, in which management, works council and trade unions work closely together in a 'tripartite steering group' that is responsible for employee development and other important social policies. Engineering 1 has run several pilots, organized by employees as members of temporary project groups, in order to improve and innovate in social policies (e.g. employability measures). Hence, Engineering 1 extends employee participation by not only having a works council, but having employees directly participate in policy-making as well—a process of social innovation, as they call it. The members of the tripartite steering group signed an agreement in which they stated that they have joint responsibilities to develop social policies that have the same legal status as the collective labor agreement. The remaining CLA could therefore be reduced to basic agreements on salary, insurance and other material matters.

According to the HR director of Engineering 1, the current employee representation practices operate very well. The works council said in their yearly evaluation: *'we have a fantastic working relationship with our employer, but not too close'*. All policy topics are open for discussion between management and the works council, monthly financial forecasts included. During informal meetings, 'soft' but important topics such as culture, attitudes and behavior, and leadership are discussed, which builds mutual trust.

An incident happened during a pilot with flexible working at Engineering 1. The works council said: *'we want to use our right of consent for this pilot'*. The management reacted: *'Then we will have to suspend, as we have agreed that in this process of social innovation, no permissions will be asked to either management, works council, or trade union. Instead, we previously agreed that the steering group should decide. If you wish to use a right of consent, you are withdrawing the pilot from the social innovation process, thereby undermining the whole social innovation process'*. After a 15-min break, the works council gave up their right of consent but requested a consult with a specific manager instead. This consult took place and next, new ways of flexible working were introduced. The HR manager comments: *'This incident shows that social innovation, in which new forms of social dialogue are introduced, is not easy at all'*.

In sum, the interviews show that social dialogue is quite constructive within Dutch organizations, at least within the ten companies in our sample. In general, HR managers have open dialogues with the works council, involve ERs early in the process of decisionmaking, trust them, and sometimes succeed in innovating the system of employee participation, especially by extending employee participation to *all* employees (direct participation) instead of formal employee representation only (indirect participation).

8.2.2 Changes Desired by Employers

Although in general, the HR managers that we interviewed were quite satisfied with the level of social dialogue with works councils, they also perceived room for improvement. For example, the HR manager of University 1 would like to see a less

traditional mind-set amongst works council members, in which they do not merely stand up for acquired rights of employees, but are focused upon (social) innovation as well. The management of University 1 perceives the current form of dialogue with the works council as a bit outdated, due to too little diversity within the works council (mainly old white men), and too little communication between works council and employees. Management prefers an integration of the *student council* and *faculty council*, because the interaction between both stakeholders—students and employees—is likely to provide added value. Also, new technology could possibly provide more and faster communication with employees, making employee representation more efficient and providing more bottom-up feedback from followers.

University 2 would like to receive more macro-feedback from the works council. At this moment, the works council seems to be driven by what happens day to day and therefore focuses strongly on daily business and operations. The manager explains: *‘Sometimes the works council complains about a copier being out of order, instead of focusing upon strategic issues’*.

The management of Manufacturing 1 would prefer a structure of employee representation that would take less time and money, because in this company, too many employees are involved and too many dialogues are taking place on multiple tables, also informal ones.

At Food and Drinks 1, management does not complain about the works council, but all the more about their dialogue—or lack of it—with the trade unions. One of the managers that we interviewed said: *‘I doubt whether the unions have achieved a lot for their members over the past years. We are willing to negotiate fair deals, but only if they go for dialogue instead of organizing employees to go on strike’*. The management of Food and Drinks 1 aims at a constructive dialogue with all stakeholders in employment relations of this company. As the HR manager said: *‘We strive for sustainable employability for all workers in our company, as well as for good employment practices. We therefore believe that “organizing” is not very helpful. It is destabilizing and highly political, and it can be questioned whether “organizing” indeed benefits the employees of this company’*.

The HR director of Food and Drinks 2 is satisfied with the current dialogue, although he foresees a more cloudy future. *‘The current crisis as well as the national social agreement that was recently 2013 negotiated by the national social partners will keep on testing the employment relations system, internationally and nationally, and it will also test this company. It will be a try-out time for tentative subjects such as the right of dismissal, flexible employment relations, and pensions. At this moment, we are having a good on-going dialogue with the trade unions, for example about the pension system. However, it looks as if the Netherlands is saying ‘goodbye’ to the current welfare state, which constrains room for win-win agreements, both at a national and at this company level’*.

At Bank 1, they are gradually replacing their traditional model of employee participation for a more modern model, in which more employees will be involved in employee participation, but less of their working time. Specifically, 50% of the works council will consist of ‘traditional’ ERs another 50% will consist of

employees who perform only part-time tasks in their representative role, for example, ICT employees working on a specific ICT-related policy issue on which the works council has to advise or assent. This new model has a couple of advantages: more employees will be involved in employee representation; the works council will be a better reflection of the diverse workforce; and the works council can use specific expertise that will be helpful for the issues at hand. Other changes that Bank 1 wants to implement are: more use of social media by the works council as to involve employees better; more informal chats between management and employees; and obligatory membership of the works council for young management trainees.

At Bank 2, management sometimes perceives competition between works council and trade unions. For example, the works council is not involved in negotiating the collective labor agreement, whereas they prefer to be so. Furthermore, both works council and trade unions argue that “the other” is not representing the employees fully. This competition hinders an open tri-partite dialogue.

At Energy 1, management strongly believes that every employee—not only the works council—should have a voice. They are currently exploring possibilities to involve *all* employees, using modern social media technology. Moreover, they would like to increase the quality and expertise of works council members. *‘Some people are in the works council for over 20 years, which hinders a constructive dialogue. We have to change that,* according to management.

At Small Business 1, some people complain about what they call ‘fake employee participation’: *‘In the end, management decides on everything’*. However, management does their utmost to invest in indirect and direct employee participation. For example, employees can go for a walk with the CEO during lunchtime, and voice their ideas and worries.

At Engineering 1, management worries about employees being too satisfied. According to management, there are too many social safety nets for employees, affording them to lean back instead of being proactive in constantly improving their own work methods and voicing ideas for policy improvement at the company level.

In sum, although Dutch HR managers are quite satisfied with dialogue with their works councils, they also see room for improvement. Specifically, they would like to see more modern instead of traditional mind-sets amongst ERs, who could for example use new information technologies more often, such as social media to communicate with all employees. Furthermore, they would prefer employee representation that focuses on strategic issues, without taking too much time. Moreover, they foresee an ending of the current Dutch welfare state and luxurious safety nets for employees, which should be on the agenda of conversations between management and works council. And finally, the relationship between works council and trade unions constantly deserves attention, to have a fruitful tripartite dialogue between management, works council and unions.

8.3 Perceptions of Human Resources Managers on Employee Representatives. Results of the Survey

Figure 8.1 shows the results of a survey among 614 European HR managers from 11 European countries. The answers of the 70 Dutch respondents are compared to all European respondents. Red circles refer to statistically significant differences.

The Netherlands appears to score on the European average with regard to 9 of the 17 variables. This means that with regard to relations between HR managers and ERs, Dutch HR managers, compared to European HR managers, perceive equally trustful *industrial relations*—as measured with items such as ‘To what extent is there a trusting relation between management and employee representatives?’. They find ERs equally able. Related to this, Dutch HR managers perceive equally low levels of *competitive conflict management by ERs*, and they find ERs equally competent compared to Europe on average. *Managers’ need for control* is also on an average European level. Furthermore, compared to Europe, Dutch HR managers perceive equally low levels of *relationship conflict* with ERs, measured by items such as ‘How much personal friction is there between management and employee representatives?’. The *impact that ERs have on traditional issues* according to Dutch HR managers is also equally high compared to European HR managers, as appears to be the case with regard to *conflict management efficacy* and *quality of agreements*, as perceived by Dutch HR managers.

However, there are some differences as well between Dutch and European HR-managers. On the positive side, Dutch HR managers perceive higher *integrity* of ERs

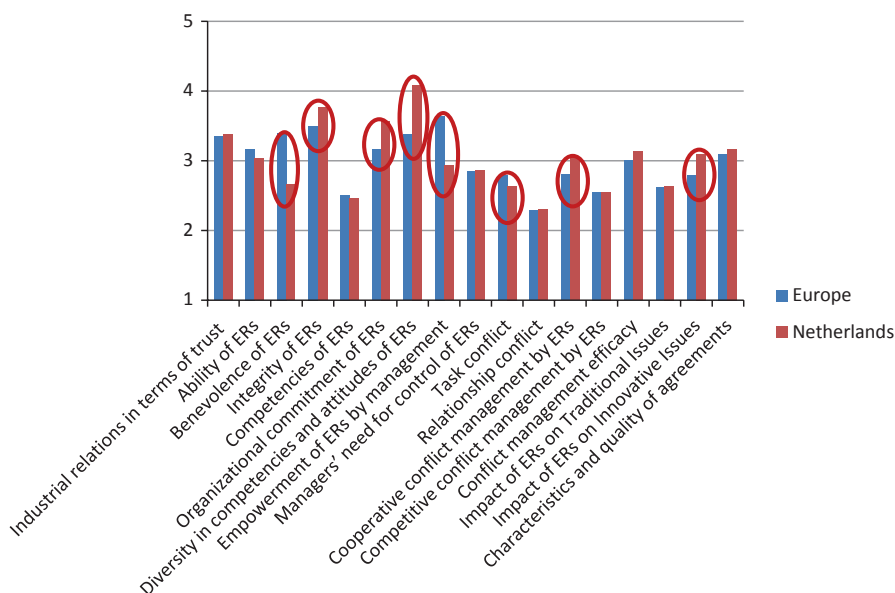


Fig. 8.1 Differences between The Netherlands and Europe on the variables in the survey

($M=3.76$ versus $M=3.47$) and more *organizational commitment* of ERs ($M=3.57$ versus $M=3.16$). It appears that Dutch HR managers perceive significantly less *task conflict* with ERs than European HR managers ($M=2.64$ versus $M=2.81$), as measured with items such as ‘To what extent do management and ERs disagree about the content of strategic decisions?’. Furthermore, more *impact by ERs on innovative issues* ($M=3.10$ versus $M=2.80$) such as Corporate Social Responsibility and ‘green issues’; more *cooperative conflict management by ERs* ($M=3.05$ versus $M=2.76$). Hence, the Dutch HR managers in our sample appear to be quite positive about the strategic position, attitude and behavior of ERs.

On the critical side, it appears that Dutch HR managers perceive their ERs as significantly less *benevolent* ($M=2.66$ versus $M=3.35$) and less *empowered* by management ($M=2.93$ versus $M=3.61$) than European managers. The Dutch perceive a relatively high level of *diversity in competencies and attitudes of ERs* ($M=4.09$ versus $M=3.38$), as measured by the item ‘I see large differences between the employee representatives in my organization in terms of competencies and attitudes’. In other words, although Dutch HR managers perceive the ERs in their company as of high integrity, they do perceive them as relatively less benevolent compared to the average scores in our European sample. Apparently, Dutch HR managers accept that their ERs are sometimes their opponents, which might be a reason why Dutch HR managers score relatively low on empowerment of ERs by management. Most interestingly, Dutch HR managers perceive a relatively high level of diversity in competencies and attitudes of ERs. They believe that some ERs are quite competent and constructive in their role, but others are less so. This might make Dutch HR managers somewhat hesitant to take their works councils seriously.

In sum, the survey results appear to be in line with the interviews: Dutch HR managers appear to be relatively positive about their dialogue with works council members, also compared to HR managers in other European countries. The Dutch perceive relatively little task conflict with ERs, high integrity of ERs, cooperative conflict management by ERs, high impact of ERs on innovative issues (e.g. CSR), and high organizational commitment of ERs. However, Dutch HR managers are relatively less positive compared to the other European managers in our sample about their perceptions of both benevolence and empowerment of ERs; moreover, they perceive much diversity in competencies and attitudes of ERs.

8.4 Conclusions and Recommendations

To conclude, the Netherlands seems on the right track with regard to the quality of employee representation. However, just being satisfied with social dialogue is not enough, because there are currently serious threats to the Dutch labor market. Hence, we recommend (Dutch) works councils to become a real (competent, serious, constructive) partner in innovating and improving employment relations. This process starts with management, who has to take employee participation

seriously. Luckily, innovation of employee participation is an important theme in the Dutch world of employee participation of today. For example, the Dutch journal *Zeggenschap*, which is the most-read professional journal for practitioners in the field of employee participation in the Netherlands, recently had a special series on renewal of employee participation (Audenaerde and Van de Hoeven 2013; Clark 2013; Nauta and Van Tienen 2014). Based on this series, and the current chapter, our recommendations are the following.

First, employee participation deserves to be extended to *all* employees, instead of formal ERs only. By doing so, employers will increase the level of commitment amongst their personnel, which is necessary due to the continuous change that is taking place within companies and on the labor market.

Second, improving social dialogue implies a process of continuous learning, experimenting and improving. This may also ask for new ways of learning employee representation skills. The Netherlands has a strong tradition of educating ERs. This tradition is maybe a bit too traditional, with ERs going to class for 2 or 3 days each year, learning all rules of the law on employee participation, but not so much the (political) games that they have to play. Due to increased flexibility and change, ERs should learn more by doing, and reflect upon doing their job, maybe with the help of so-called professional ‘learning producers’ (Nauta and Van Tienen 2014). By doing so, ERs can increase their skills, which will increase the chance that management will do serious business in open dialogues with them.

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Chapter 9

Employee Representatives in Poland. How are they Perceived and what are the Expectations by Employers?

Barbara Kozusznik and Jarosław Polak

9.1 Social and Historical Context of the Labor Movement in Poland

Taking into account the crucial meaning of social dialogue in industrial relations we must admit that the social dialogue in Poland is “under construction”. The specificity of Polish industrial relations is affected mostly by traditional thinking about social dialogue as a fight for individual interests, mostly due to the low level of trust between employers and employees (Zdybała 2007). Social dialogue is a relatively new institutional phenomenon in Poland, which starts to function in the social environment without a prior tradition and climate supporting cooperation and mutual trust between employers and employees. There is a great need for constructive cooperation forms between employees and employers because only effective social dialogue can guarantee the effective development of the economy and the society as a whole (Zdybała 2007).

There is much to be done in Poland to create the modern and innovative social dialogue needed to overcome the obstacles. An important barrier is the marginal role of trade unions (TU) in the private sector. There is a lack of mechanisms that build the capital of social trust in the new sectors of the Polish economy. TUs exist mostly in the public sector and in big public institutions, change is badly needed towards democratic participation and control of the employees in all institutions (Ciompa 2007). The most visible activities are at the central level in Poland in the form of a Tripartite Commission for Social and Economic Matters and Provincial Commissions for Social Dialogue (Dziennik Ustaw 2001), but social dialogue is much weaker at the organizational level (Hajn 2004). This could be explained by

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M. Euwema et al. (eds.), *Promoting Social Dialogue in European Organizations*,
Industrial Relations & Conflict Management 1, DOI 10.1007/978-3-319-08605-7_9

the low level of participation of employees in TUs. In Poland, only 12% of workers are members of the Labor Unions (69% in Denmark).

The labor movement in Poland exists since the end of the nineteenth century, in the Prussian and Austrian partition regions. In 1869, the first Trade Union of Mechanical Engineers and Metal Workers was founded in Bromberg. In 1889, the first general 'Union of Mutual Help' (ZWP) was founded in the town of Bytom in Upper Silesia. Much of the trade union movement was ideologically divided. After 1945 in the communist system the unions became the element of workers' organizations and a political instrument of the Polish United Workers' Party (PZPR). However, this repeatedly encountered violent resistance of the workers in the industrial centers (in Poznań in 1956, in Gdańsk and Gdynia in 1970, in Radom and Ursus in 1976 as well as in Gdańsk in 1980) (Pańków 1999).

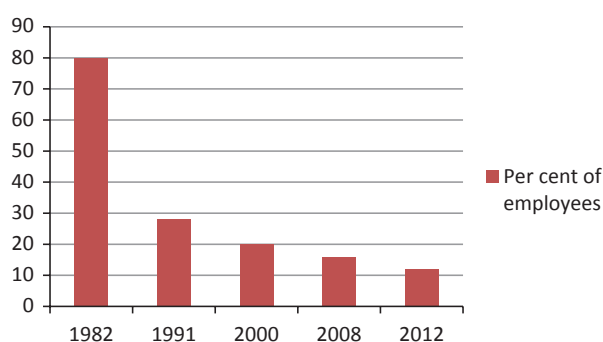
Poland belonged to the countries under a communist regime but the functioning of the Labor Unions was different compared to the other countries in the communist bloc. The 'Central Council of Trade Unions' (CRZZ) served as a "transmission belt" between the communist party and the people. CRZZ's model was based on the autocratic power of the center, while its regional and sector branches simultaneously had negative power over the CRZZ's center. They were able to limit the effectiveness of the center of the CRZZ because they were engaged in some vague interests (Pańków 1999). The foundation of the Independent Self-Governing Trade Union "Solidarity" (*NSZZ Solidarność*) in August 1980 -a mass organization with almost 10 million members- led to the self-dissolution of the CRZZ subordinated to the PZPR in autumn 1980.

The Martial Law was introduced on December the 13th of 1981 and lasted until June of 1983. Solidarity was banned and the controlled re-establishment of trade unions dependent on state orders began. In 1984, the 'All-Poland Alliance of Trade Unions' (OPZZ) was set up as an umbrella organization to coordinate them.

After the regime changes of the year 1989, the OPZZ remained the strongest trade union federation, but the membership dramatically decreased. In the middle of the nineties, about 4.5 million people were members of OPZZ. This number fell to under 2 million by the year 2001 and it is estimated now that there are less than 750,000 members. The same decrease of membership is observed in NSZZ "Solidarity". In the middle of the nineties the number of members decreased from 10 to 1.1 million members, from 2005 to 2013 it went down to 700,000, and is still decreasing. From 1982 until 2013 the overall degree of unionization fell from 80% to below 12–16% (Fig. 9.1).

National trade unions were highly engaged in politics during the transformation period. Lech Wałęsa, the first chairman of "Solidarity", became president of Poland in 1990 and offered trade union members government offices, seats in the Polish Parliament, as well as on management boards of big state-owned companies. "Solidarity" gained enormous influence, but simultaneously lost most of its leaders to politics. This led to a loss of authority for "Solidarity" as an institution representing workers' interests and separated it away from its roots members (Pańków 1999).

Fig. 9.1 Percentage of employees belonging to a trade union in Polish organizations from 1982 to 2012. (Feliński 2012)



There are differences between state enterprises and civil service in which about 28 % of employees belong to trade unions, and in the private sector, where only 3 % belong to trade unions (Feliński 2012; Wenzel 2007).

Nowadays, Poland is one of the EU-countries with the lowest degree of unionization. Most of the trade unions' members (51.7%) are women, especially in the educational sector, health and civil services, but also 35 % of members of mining trade unions are female (Penn 2003). According to Adam Mrozowski and Marta Trawińska (2012) the share of men and women in trade unions is almost even. Out of three nationally representative confederations, 42.4 % of women belong to "*Solidarity*". OPZZ has 48.3 % of women among its members and the Trade Unions Forum (FZZ) is the most feminized union (53.8 % of the members) (Gardawski 2009, p. 556). It is noteworthy to point out that only 2.4 % of employees under the age of 25 belong to a trade union.

The low level of workers' participation in TUs is a consequence of the lack of trust in a possible influence of the TU on the labor market and on the organizations' functioning (Czarczyński and Kulpa-Ogdowska 2006). Polish employees don't believe in the effectiveness of Labor Union's activity. In the survey carried out by CBOS, 40 % of the respondents did not perceive the effects of TU (Haponiuk b.d.). This context doesn't support TUs activities because TUs exist only in big public sector organizations, like heavy industry, education and health service. Other sectors -mostly private- do not support the existence of TUs in their organizations, due to the financial obligation of the employer to support TUs and to the employers' unwillingness to have internal 'supervision'. The employees are not engaged in TU activities because they feel unsafe. Being active in the TU is understood as "risky behavior". There are also some other factors which weaken the role of TUs related to the low representation of women and young workers' and a very weak existence of TUs in new and innovative sectors of new technologies (Haponiuk b.d.)

There is a great challenge for Poland to overcome the above mentioned obstacles to create constructive social dialogue as a crucial tool for an effective development of the society and its economy.

9.2 The Current Situation of Polish Trade Unions

All Polish TUs, including NSZZ “Solidarity”, used their old structures to deal with new tasks and challenges during the transformation period after 1989. Despite numerous reform attempts, all unions suffer because of these dysfunctional structures. The reform of structures has become a point present at all congresses and in all programmatic documents in many variations, but that does not result in any significant changes. Although they support political reforms, trade unions are conservative and resistant to change when it comes to their own organizational structures and finances. The structure of the organizations reflects the Polish state-owned economic structures from the beginning of the eighties and not the realities of today’s globalized market economy and precarious labor markets. The borders of local structures often do not follow the local government re-organizations which have taken place in the meantime.

The degree of unionization is still exceptionally high in the mining industry, in the metallurgical industry, in the railway industry and in education. Trade unions are present in all state owned mines. Apart from the two large trade mining unions affiliated to “Solidarity” and OPZZ, there are independent unions of occupational groups. The degree of unionization depends on the mine and lies between 70 and 90%.

However, 97% of all establishments in the country have no trade unions, especially not in small and mid-sized enterprises (SMEs). On the other hand, in the business segment where there are employees’ organizations we find over 23,000 trade unions as legal entities, and over 300 industry-wide organizations which aspire to be national confederations of trade unions. All of them are properly registered with the courts.

The strategy used by those people involved in the trade union movement is to use the organization to gain personal benefits, consisting primarily on building their own prestige within the organization to differentiate themselves from other workers, and being better informed. These motives are understandable and acceptable, but some companies allow certain employees to achieve these objectives and do not expect the use of their position to strengthen the structures of ERs. As a result, a small group of people who are actively working within the trade unions and on the federal national and international fora do not contribute to the effective representation of the interests of workers.

It seems that this mechanism acts as a system to monitor the situation and atmosphere among the crew. Overtime, the belief in the effectiveness of the trade unions decreases, resulting in the lack of interest in belonging to them. Although TUs formally exist in the company, they have no real effect on what happens in it.

Creating the regulations concerning Works Councils gave some hope to change the situation of the lack of consultation and real social dialogue in companies. WCs were established for the first time in the act of April 7, 2006. This act is the implementation of the EU directive 2002/14/UE establishing a general framework for informing and consulting employees. The councils are established only in organisations

with at least 50 employees, and only at the request of employees. Council members are elected in direct and secret elections. The councils have an information and consultation role. Works councils should be informed or consulted on issues relating primarily to employment. According to law regulations, WCs should have access to economic and employment related information. In fact, the popularity of WCs in Polish companies and the knowledge of the forms of cooperation with WCs within companies does not look satisfactory. According to Ciszek and Chakowski (2006) as well as Ciompa (2007), Polish managers are too focused on the current results and do not see the benefits of long-term cooperation with representatives of the employees. The results of our research seem to confirm this opinion.

9.3 What do Employers Say About the Current Situation of the ERs? Conclusions of the Interviews

In this section we summarize the most relevant indicators pointed out by the employers in the interviews regarding the profile of the ERs. The pessimistic climate of most interviews is visible, because there are a lot of negative phenomena—according to the employers—which influence the rather poor dialogue between ERs and the management of the organizations.

The employers' main concerns regarding the ERs' role in Poland are indicated here:

Low Workers' Representation Questions about the constructive or destructive role of the TU for the organization arises constantly. According to most HR managers, TUs don't represent the workers but they represent unions only. *'The ERs only take into account their own interests and a safeguard attitude is prevalent among ERs'* (HR manager, manufacturing sector). Nevertheless, managers and employees often recognize the existence of trade unions as a necessity. However, they consider that their mere existence is sufficient and they do not need to be accounted for the representation of employees in the social dialogue in the organization.

Low Interest in Innovation On the one hand, employers believe that TUs are not interested in innovations, self-development and in the activities for the whole organization.

ERs main attitude is to preserve the status quo. Each change is dangerous for them (HR manager, manufacturing sector).

The ERs are much more claiming then innovative (HR manager, education sector).

On the other hand, they don't know what kind of innovation they could really implement and in which direction innovation should lead.

We really know what our duty is according to law and internal regulations and we strive to achieve them (HR manager, education sector).

It is worth mentioning that the TUs perceive their goals mainly in the traditional areas of operation (e.g. salaries, employment, etc...). Many of the issues that can

be considered as innovative (e.g. corporate social responsibility, gender equality or environmental protection) are not the subject of their interest. It should be noted that issues relating to gender equality in trade unions themselves have only recently started to be the subject of public discussion. Feminist organizations such as the *Women's Congress* postulate amendments to the Polish law on TU to the criterion of equality between women and men. Perhaps such a change would result in a greater participation of women in trade unions and a greater interest in matters referred to as innovative (Grzybek and Piotrowska 2009).

The Lack of Responsibility According to the managers, the TUs' characteristic point is mainly the lack of responsibility for the organization as a whole:

TUs have too much rights and this is a barrier for making decisions by management (HR manager from manufacturing sector).

The low level of mutual trust and political game between TUs and management. Both sides perceive themselves as political players and are willing to hide their intentions and plans. Rarely are they capable of understanding their roles as complementary, with the shared goal of the success of the organization.

ERs are generally untruthful towards their employer and they think only about the safety of employment for chosen people (HR manager, educational sector).

Sometimes TUs in organizations are seen as the last resort for workers who have broken the law or have violated internal regulations. By defending them even if it is a blatant violation of the law, unions destroy their position as a trustworthy partner. In addition, managers perceive that unions undergo the pressure of workers' demands, which are not always rational.

Poor Dialogue Culture According to the employers' opinion, the level of dialogue is rather poor; there is a lack of constant communication. TUs are rather passive as far as initiating the dialogue as well as building up its communication skills.

ERs are specialized only in some fragments e.g. of work law that's why they are not ready to take part in competent dialogue (HR manager, financial sector).

Possibly this point also relates to the fairly large power distance in the Polish culture. The decisions of the companies' governments are often perceived as not subject to discussion, even if they are perceived as wrong.

Workers Council as a Unique Phenomenon They exist in some organizations and this is a unique phenomenon. The weaker position of WCs in comparison to TUs is perceived by some HR managers as kind of advantage. They think that workers with a high level of energy and enthusiasm to improve social dialogue in organizations have less influence on the real situation as members of WCs than TUs. Additionally, the existence of WCs helps the company against establishing TU.

This council has rather weak influence on organizational functioning but the existence of the Council is appraised as positive because it protects the organization. The "danger" could be that trade unions will be established—trade unions could be a barrier in decision making process (HR manager, manufacturing sector).

“Marionette” character of the workers council and their objective to fight for protection of individual workers.

The ERs are not engaged in solving organizational problems and only care for individual members’ protection. They should feel responsibility for the whole organization and they don’t see how the real life look like (HR manager, financial sector).

Low level of influence on the organization’s activities.

The big organizations’ power is too strong for the ERs’ weak position (HR manager, educational sector).

No need to have TUs. There is a pervading conviction among employers about the lack of need to have TUs in the organization. According to the managers:

The standards of organizations concerning the workers safety and their level of salaries/ payment are high and sufficient and there is no need to have TU to “fight” for good standards (HR manager, financial sector).

It can be the effect of a closed circle. Inefficient TUs are perceived as unnecessary and members of TUs who feel themselves as unnecessary are more and more inefficient.

TU’s Political Power TUs are treated as a political partner in the dialogue with the organization, especially due to their political connections and power (in one of the interviewed companies two past Polish Parliament members participate in TU management).

As an employer I expect authentic decision making and mutual understanding but I see politics (HR manager, banking sector)

Possible ways of solving problems by TUs are judged by their political affiliation (and sometimes by private prejudices of the managers) rather than by the competence of their members.

Information As a Crucial Instrument The crucial thing in the organization is information sharing, which could help to understand even the most complicated problems. Sometimes ERs don’t understand the purpose of some activities or don’t have enough experience to perceive that they can be an important element of the circulation of information system.

9.4 Employers’ Perceptions of ERs. Results of the Survey

Results are presented based on the survey among 58 Polish HR managers of different sectors, compared to the score of 556 HR managers from 10 other countries in Europe. T tests were conducted to analyze differences between the Polish HR managers and the rest of European HR managers participating in this study.

In Fig. 9.2 we can see a graph with the mean for each variable in Poland compared to the European mean. These results suggest that HR managers perceive

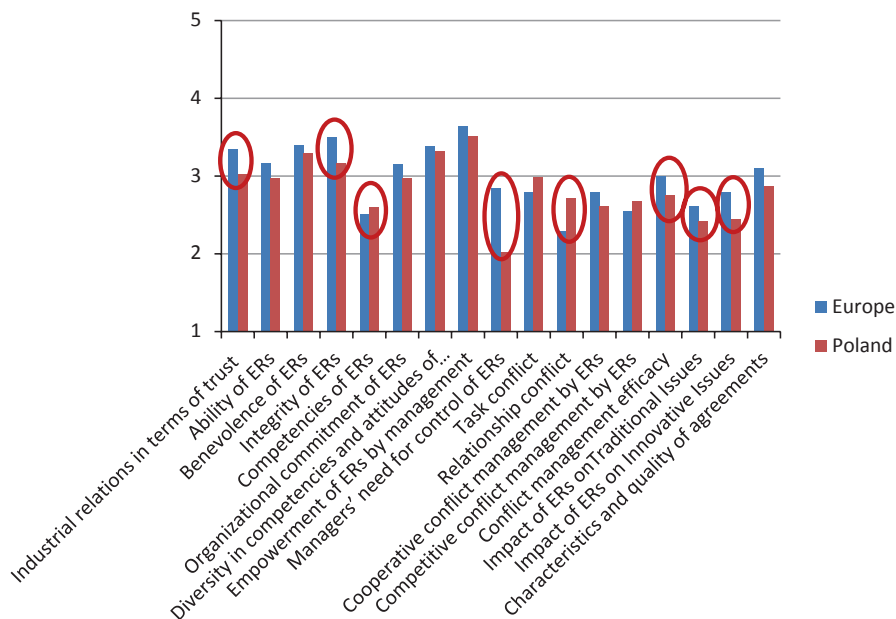


Fig. 9.2 Mean scores of main variables for European and Polish HR managers

the *Industrial relations climate* worse in Poland ($M=3.07$), compared to Europe ($M=3.31$). *Integrity* of ERs scores lower in Poland ($M=3.07$) than in Europe ($M=3.31$). More in detail, HR managers' perception of ER's *competencies* is higher in Poland ($M=2.63$) than in Europe ($M=2.47$). *Relationship conflict* is higher for Polish HRs ($M=2.73$ versus $M=2.29$). *Conflict management efficacy* is again lower in Poland ($M=2.75$) than in Europe ($M=2.98$). Finally, *impact by ERs* scores higher in Europe ($M=2.65$) than in Poland ($M=2.45$) in *traditional issues* as well as in *innovative issues* ($M=2.80$ versus $M=2.47$).

No differences were found between Polish HR and the rest of European HR participating in this study for the rest of the variables. The results of the survey in Poland are consistent with results of interviews showing that HR managers in Poland have definitely less positive perception of ERs, compared to the other European managers.

9.5 Suggestions Given by Employers to Improve Social Dialogue in Poland

Both the qualitative and quantitative results of this study clearly point out that Polish managers perceive a great need for improvements in different aspects of the industrial relations' model and in the competencies and attitudes of ERs in Poland.

The current model of ERs in Poland is perceived as outdated and the industrial relations' model and unions dynamic requires a huge transformation. The new in-

dustrial relations model should focus on the ability to interact between the two groups—ERs and management—on ERs' participation in the decision making processes, as well as on creating a trust and commitment culture between both sides.

The main proposals from the employers for this new model are:

1. To improve the election process of ERs. There is a great need to improve the process of the election of ERs as they are the authentic representatives of all workers, not only the representatives of the unionized workers.
2. To attract young ERs. The problem is that TUs don't have successors and highly qualified potential leaders to substitute the current ERs.
3. To build up the understanding of the constructive role of social dialogue.
4. It's not unlikely that the new dialogue will be possible if large groups of TU members face the true perspective of losing their job and the necessity of coping with the flexible labor market.

There are also some problems concerning European initiatives:

- There is a deficiency of compromise culture as a heritage (though not entirely) of authoritarian socialism
- We can observe the evolution of some value models thanks to the influence of European ideas of the new work relations in the framework of European social dialogue.

In the Polish society there is a kind of negative attitude towards TUs, which are perceived as a weak, workers friendly organization with low influence, even if most of the population thinks that TUs are needed and could be useful. It should be also underlined, that in organizations in which TUs are present, the labor law is much more respected and the working conditions are perceived by workers as much more comfortable for them.

Poland is the European country with the lowest level of trans-organizational collective trade agreements. From the European point of view this is a proof of extreme deregulation.

The most important problem of Polish TUs is Ford's ballast. The TUs are located only in big, public organizations and they have problems to exist in large space trade organizations and in the Polish private sector, with the exception of the modern enterprises with foreign capital (automobile industry).

The current model of Polish TUs hinders the achievement of authentic dialogue, discussion and mutual help between ERs and management of the organizations.

9.6 Discussion on Expectations of Polish Employers on ERs' Roles, Attitudes and Competences

The Polish employers perceive a lot of problems in the functioning of ERs and expect them to change. The main problems are:

The low level of awareness of "perceived utility of the ERs" for improving the efficiency of management.

I think that there is a great potential in ERs but they should learn how to perceive organizational problems as much more global in the broader organizational context (HR manager, educational sector)

ERs are brought into play by top management mainly as a side of the internal politics of the organization. In one of the organizations, ERs were perceived and treated as a group of disoriented people who are easily controllable and the HR office used them to spread unpopular ideas and unpopular solutions.

‘Management often use ERs leaders as a tool to solve difficult problems concerning staff of the plant’, said an HR manager from manufacturing sector.

ERs behave as if they were an isolated island (HR manager, manufacturing sector).

There is a scarce use of innovative tools to build relationships with ERs. The main idea of cooperation forms between HR managers and ERs is to ask ERs for acceptance of difficult decisions, but there is no will to develop these decisions together.

Both sides—employers and ERs—do not believe in modern and innovative dialogue to cooperate in order to solve the problems of organization (...). They don’t see that a good relationship with employer is possible (HR manager, manufacturing sector).

It is worthy to underline the political commitment of Polish TUs due to historical reasons. After 1989, “Solidarity” gained enormous influence and lost most of its leaders, who went into politics. “Solidarity” members are perceived as right-wing political parties and Catholic Church supporters. As a result, also members of other TUs are identified as proponents of other mainly left-wing political options, even if it is not true. This led to a loss of authority of TUs as an institution representing workers’ interests and builds around activities of TU unfavorable climate even at the organizational level. To conclude, below we list the main conclusions from the data collected in Poland:

The Polish employers are disappointed with the role of TUs and ERs. There seems no authentic interest in Poland in Corporate Social Responsibility. The development of Social Dialogue could and should be implemented under the CSR umbrella.

We don’t have influence on what’s going on in this area because in general nobody takes an interest (HR manager, education sector)

There is a **low level of the awareness about how ERs could work** to increase the effectiveness of management. Activities are not real but rather formal or virtual. TUs reflect political influences and political parties in Poland and Polish citizens don’t want to engage in ER or TUs activities. In smaller organizations there is no normative demand for social dialogue. However, a company of less than 50 people can still be an important group of people. They just need an opportunity to speak louder and to be heard.

The ERs can be much more open for changes and they can promote innovations but they must learn a lot about the context of organization and about organization management (HR manager, banking sector).

According to some employers, the situation is hopeless because **the role of TUs is defined as a permanent conflict.**

ERs behave as if they play a game during the war. They are against everything and they are deaf to the arguments (HR manager, manufacturing sector).

It can be understood as a structural conflict. It's a reason for the lack of business awareness among ERs. Modern societies want to buy cheaper products and that's why companies want to produce cheaper and outsource their production towards Eastern countries. Simultaneously, TUs want to work less and earn more. A typical Polish example are agreements which are inherited after the communism times. Very often they are outdated and do not meet the requirements of flexible employment, for example in 1974 there was an agreement about rigid 26 days of the holidays and paid days of illness. It's important how this conflict situation is perceived and ways to work less, but more effectively should be learned. We should talk about how to make ERs reliable partners in the process of elaborating new solutions for that conflict. There is a chance to prevent interest of both sides. There are only about 10% of workers which belong to TUs. That's why HR departments are becoming the representatives of the rest of workers representation.

The common goal of organizational effectiveness is the main reason for organizational competitiveness. **We must build up a new mentality**, the change of awareness that the organization's effectiveness is a common goal of all parties. ERs should be aware that they are part of the organization and that they also serve the organizational goals. They must be aware of the demands which build a competitive position of the company on the market. From the psychological point of view, ERs are an ideal channel and method for the formation and strengthening of labor relations based on the principle of public participation, encouraging activity and creativity.

To convince employees to establish ERs or TUs within an organization we should **convince the employer that TUs will contribute to some profit for the organization.** There is a need to offer proof that using modern instruments for social dialogue and success of the company are strongly related. So far there is no empirical evidence. The rhetoric of positive socio-economic development is not enough to attract people to for all that time consuming and risky action of social dialogue.

We should also build up the positive image of the ERs within the Polish society. There are only a few organizations promoting ideas of social dialogue and its beneficial role. Their activities could be recognized more. For example, the last report on WCs in Poland was published in 2007. In our opinion, the role of WCs or TUs as a way of taking part in building modern and healthy society is rather unknown in Poland.

"We must educate TUs". The question is how to attract them to education and what knowledge and skills they really need. Education about employee representation should be started early in primary school. We still experience low level of civil responsibility in our society.

As a final conclusion, we can say that the results obtained are not very optimistic. The good times of social dialogue in Polish companies seem to be in the future, constantly in front of them. To become a commonly used tool, three basic problems should be solved. First, we need to build awareness that constructive dialogue

between employers and employees in companies is possible. Now, the belief that it is not possible seems to be prevalent in the studied organizations. Secondly, methods of social dialogue should be disseminated among employees and employers. Conversation in difficult situations or during conflict is not easy, and both sides need to learn how to talk to achieve common goals. Third, there is a problem of the lack of evidence that social dialogue is worth the effort and that both companies and employees can benefit from it. It would be very desirable to provide workers and employers in Poland with the empirical evidence and good examples showing the benefits of social dialogue.

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Chapter 10

Employee Representatives in Portugal. How are they Perceived and what are the Expectations by Employers?

Ana M. Passos and Vanessa Russo

10.1 The Historical Context of the Labor Movement in Portugal

The evolution of the labor movement in Portugal follows the evolution verified in other countries, bearing in mind a more delayed industrialization. The labor movement started in 1853 with the foundation of the “*Centro Promotor do Melhoramento da Classe Laboriosa*”. The first strikes occurred in 1872 and, at the end of the XIX century, the workers’ organizations multiplied until there were 392 workers’ organizations registered in 1882. In 1914, the first Confederation was founded that later changed its name to Confederação Geral dos Trabalhadores Portugueses (CGTP) (Stoleroff 2000). With the dictatorship (1933–1974), the existing unions were dissolved and a corporative union was established, with absolute state control.

The labor movement in Portugal can be divided into three phases in the period between 1933 and 1987: (1) *corporative phase*—referring to the period of the dictatorship and integrated within the national policy and subjected to a strict control and severe restrictions on their activity; (2) *unitary phase*—starting with the beginning of 1974 until the elaboration of the constitutional document in 1976, which is characterized by a strong support for the ideals defended by the Portuguese Communist Party. With the Carnation Revolution of 25th April of 1974, the Inter-union (CGTP-In) appeared as the only organization capable of covering almost all corporate unions; (3) *Union pluralism*—consecrated with the Constitution of 1976 and the beginning of the União Geral de Trabalhadores (UGT), aggregating the union tendencies that were not in harmony with the orientation and philosophy of CGTP-IN (Noronha 1993). The crystallization of political antagonisms within the labor movement following the 25th of April, resulted in a Portuguese labor movement

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© The Author(s) 2015
M. Euwema et al. (eds.), *Promoting Social Dialogue in European Organizations*,
Industrial Relations & Conflict Management 1, DOI 10.1007/978-3-319-08605-7_10

divided between these two ideologically and politically opposed confederations and a cohort of independent unions (Stoleroff 2000).

In 1992 the Portuguese economy converged with the general European recession. There was a significant decline in employment of 1%, and by 1993 there was a negative growth of 2%. The decline continued until 1995. The annual declines in salaried employment were greater in this period and in 1995 Portugal arrived at one of the highest rates of unemployment (Stoleroff 2000). This increase of unemployment in the context of continuing restructuring, contributed to a general decrease of union strength. Strike frequency declined with the downward economic curve. The decline in strikes was also coincident with the institutionalization of tripartite bargaining and it could be argued that conflict was channeled to social dialogue and that Portuguese neo-corporatism had been successful. However, this was not the case. The decline in strikes was an indicator of the decrease in the unions' ability to mobilize the workers that resulted from the crisis (Stoleroff 2000).

The late 1990s and the beginning of the 2000s were marked by a lagging economy where Portugal failed to catch up with the EU average. Public expenditure rose to unsustainable levels and the number of public workers reached unprecedented proportions. State-funded and supported construction projects (Expo 98 World Fair in Lisbon, the 2004 European Football Championship) proved to have little positive effect in fostering sustainable growth. The short-term impact of these major investments was exhausted by the end of 2000, which led to increased unemployment and a downturn in the economy (Rosa 2011).

Nowadays, union density in Portugal is below 20% and has been decreasing constantly. There are higher levels in public services and in some larger companies (Census 2011). The two main union confederations in Portugal—CGTP and UGT—have been losing members. In addition, there are a number of smaller unions outside the main confederations. Today CGTP, UGT and unaffiliated unions together may have between 700,000 and 800,000 members, with CGTP counting for about two thirds of the organized workforce. Regarding their collective bargaining, the percentage of employees covered by collective agreements was over 90% of the workforce in the private sector in 2010 (Quadros de Pessôal 2009). However, from 2010 until the end of 2013 there has been a dramatic decrease of the number of workers covered by collective agreements and also a reduction of collective agreements instruments. According to a recent report from the Ministry of Solidarity, Employment and Social Security the number of workers covered by collective agreements decreased 86% from 2010 to the second semester of 2013.

The main channels of employee representation in Portugal at the workplace level are the workers' councils (WC), shop stewards and TU committees, and the workers' representatives for safety and health. Their competences and procedures are regulated by the Labor Code. WCs and TUs are protected by constitutional law (Dornelas et al. 2006). The WCs are elected by all employees at a company. The number of members varies between two (for organizations with less than 50 employees) and 11 (for organizations with more than 1000 employees) according to the number of workers in the company. The WCs have information and consultative rights regarding the processes of restructuring, in setting up plans and reports and

regarding any changes in working conditions. The shop stewards are elected only by the union members in the organizations. TUs have the exclusive legal right to call for strikes and to sign collective agreements. In companies without WCs the union committee may exercise their rights concerning consultation and information (Dornelas et al. 2006). Usually, the elections of the shop stewards take place every 2 years in Portugal. Relations between WC and shop stewards can vary a lot, from cooperative to competitive.

At the beginning of 2011, the public finance crisis in Portugal escalated. In April, the socialist government called for foreign help to avoid a default situation. On the 3rd of May 2011, the Socialist government signed a “Memorandum of Understanding on Specific Economic Policy Conditionality” that resulted from the negotiations with the troika (i.e. refer to the presence of the European Union, European Social Bank and the International Monetary Fund in the country). The memorandum constituted the “framework for the further economic, social and employment policy of the new liberal-conservative coalition government” (Reinhard 2013). The document imposed drastic austerity measures that contributed to the economic downturn. In 2011, GDP decreased by 1.6%—a negative trend that accelerated in 2012. Inflation rose to 3.6%, whereas in previous years it had been below the average of the Eurozone (0.9%, in 2009, and 1.4% in 2010). The unemployment rate reached 14% in 2011 while youth unemployment (15–24 years) soared to 35.6% (Reinhard 2013).

10.2 The Current Situation of ERs

In this section we summarize the most relevant indicators referred to by the employers in the interviews. The information is structured by the principal themes of the interview (attitudes and competencies, trust and relationship among ERs and management and labor relations in organizational conflicts).

10.2.1 *Attitudes and Competencies*

The qualitative results of this study clearly indicate that Portuguese managers perceive a lack of competence and innovation regarding ERs. The main concerns of employers regarding the ERs’ attitudes and competencies are:

Need for Professionalism Most employers said that ERs need to be less ideological and more professional. Regarding this concern, most employers suggested some training in problem solving, but directed to effective solutions for the problem without “ideological contamination”.

The ideological orientation that shapes the profile of ERs in Portugal is characterized by the belief that the organization wants to harm workers, making an alliance between these two parts very difficult. However, there have been some changes in profile regarding ERs. Within WCs, there is a less ideological orientation and, in the employers’ view, more proximity to the reality of the organization.

I would live very well with a model where there was a direct relationship with a large committee of workers' representatives, which includes workers with different types of contracts, without the need for unions. (HR manager, production sector)

ERs are Decontextualized There is a general opinion that ERs, mostly the shop stewards, are very distant from the reality of the organization. According to the respondents, this is due to the lack of renewal of the staff and by the fact that most ERs only appear in the organization when it is time for negotiations or elections. This low active participation by the shop stewards results in proposals that are characteristically inadequate, when bearing in mind the reality of the organization.

Unions should realize what is the current life of organizations, regardless of the industry sector. They should understand the changes that companies have faced in the last decade. People in unions are not aware of this new reality. (HR manager, banking sector)

Lack of Innovation/Rigid Position There is a systematic refusal to any change or innovation by ERs, according to the managers. Respondents point out that ERs base their policies on courses of action from 20–30 years ago, which leads to very extreme and rigid positions that sometimes create conflicts between ERs and HR managers. The lack of innovation is linked to the ERs' lack of realism. However, respondents hope (and in some organizations this is already happening) that ERs and TUs will gradually realize that what they demand from organizations is very difficult to implement and that it actually does not make any sense. According to them, one solution is to renew people in these roles and, in order to do that, the work of an ER must be attractive.

I wish they were more realistic. To be more open to change. I wish they were not so focused on the collective agreement of the company. Because the company's agreement is completely decontextualized. (HR manager, transports' sector)

Lack of Competencies Concerning competencies, there is a general opinion that they should be improved. Overall, there is lack of leadership skills, ability to influence, negotiation skills, communication skills, general knowledge of the business and the organization, creative skills, sense of responsibility and initiative.

The industrial sector, for example, would like to see more representation and participation in other areas of the organization. This sector also pointed out that there is a lack of leadership competencies, but ERs feel that they are leaders and they feel powerful because they were chosen. The education sector is especially focused on the lack of participation of ERs (in this case, shop stewards), which is due to the lack of competencies, and is making efforts to create competent WCs. Regarding the public sector, there is the view that shop stewards only defend their members and use their position as a union delegate to avoid other work.

However, there is a widespread will across all the respondents to work with ERs who are competent and have ideas. Some of the HR managers that were interviewed said that there are some members of ERs that have some competencies and that it is easier to speak and negotiate with them.

10.2.2 Trust and Relationship among ERs and Management

Positive Perception of the Role of ERs There is a widespread will among the respondents to work with competent ERs. This is mainly because all respondents have a positive perception of the role and importance of ERs, and almost all sectors have a positive relationship with the WC.

It is important to have someone who regardless of different ideological thinking is part of the company and is looking for solutions that enable internal harmony, (...) correcting situations that might be distorted by proposing balanced, sensible, timely solutions without threats (...) knowing that there are balances that are not easy to achieve. (HR manager, production sector)

The positive relationship that exists between HR managers and ERs (specially with WCs) is characterized by respect for the law and collective labor agreements; quite a close and trusting relation (however, some mistrust is always present); monthly meetings; direct contact to counter rumors and gossip; and there is true empathy concerning the employees' problems.

If we have a trust relationship with the unions, maybe we can do a better job, different things. But in fact... there is a relationship of trust with mistrust in the middle. (HR managers, production sector)

HR managers emphasize the importance that ERs have in the supervision and application of the workers' rights. Regarding WCs, there is the generalized opinion that they have a much broader vision, are more understanding and closer to the organization problems and the reality of the situation. However, HR managers would like to see more participation on the part of ERs when it comes to negotiations and believe that ERs could participate in joint projects to maintain the organization's sustainability.

HR managers have pointed out that it is healthy for organizations to have ERs that, regardless of ideological models of thought: are integrated in the organization and are looking for solutions that create a more harmonious working environment and that may rectify unfair situations by proposing solutions. Thus, they should cooperate in a balanced and sensible way, without threats and as part of the solution, knowing that there are equilibriums that are not easy to achieve.

10.2.3 Labor Relations in Organizational Conflicts

The qualitative results of this study showed that, in general, in the last two years, there were not many serious conflicts between management and ERs. There were, however, some small-scale conflicts and arguments (differing points of view), especially during the time of negotiations, where the ERs' ideological position that "the company does not give anything" comes more to the forefront. In the industrial sector, there was one organization that had a serious conflict which was resolved by communication, transparency and reaching an agreement. Showing, in this way, that trust and being transparent are ways of creating a better industrial climate.

According to the respondents, instead of having a competitive position with the organization and always demanding more and more, TUs should be more concerned about maintaining the workers' jobs.

The collective agreement is favorable to workers even with no increase in wages for mandatory promotions. This causes some difficulties for banks. The unions understand this difficulty and seek to negotiate other social benefits such as support for families. Not only wage increases. The most important is to keep the jobs. (HR manager, banking sector)

In Portugal, the TU conflicts are now more directed to the government itself than to the organizations. It seems that unions and their shop stewards are now beginning to realize that companies do not have the capacity to respond to their requests, taking into consideration the crisis that the country is suffering.

At present, unions are almost forced to accept what companies offer them. They realize that there is no alternative. (HR manager, banking sector)

10.3 Perception of HR Managers on ERs: Results from the Survey

Results are presented based on the survey among 45 Portuguese HR managers of different sectors, compared to the score of 569 HR managers from 10 other countries in Europe (Belgium, Denmark, Estonia, France, Germany, Italy, The Netherlands, Poland, Spain and UK). We performed T-tests to analyze differences between Portuguese HR managers and all the others European HR manager. The significant differences between Portugal and the European mean have been circled in Fig. 10.1.

Figure 10.1 shows that Portuguese HR managers differ from their European colleagues in most of the studied variables. However, most of these differences go in the same direction.

Concerning the image of ERs, Portuguese HR managers perceive them as having less *abilities* ($M=2.88$ in Portugal and $M=3.14$ in Europe), *benevolence* ($M=2.88$ in Portugal and $M=3.35$ in Europe), and *integrity* ($M=3.17$ in Portugal and $M=3.47$ in Europe). This perception may also explain the *empowerment of ERs by management* that is lower in Portugal ($M=3.16$) than in Europe ($M=3.61$). To the Portuguese HR managers' organizational commitment of ERs is also relatively low.

Perceptions of the Portuguese HR managers are significant lower than those of European managers with the exception of *task conflict* ($M=3.10$ in Portugal and $M=2.81$ in Europe). In fact, among the Portuguese HR managers there is a perception of greater disagreements about ideas and viewpoints with ERs. However, the low levels of *trust in industrial relations* ($M=2.89$ in Portugal and $M=3.31$ in Europe) may compromise the potential benefits of task conflict. When we integrate these results it is evident the need to consider trust generation interventions with managers, unions and ERs representatives in order to avoid high risk of unintentionally triggering relationship conflict.

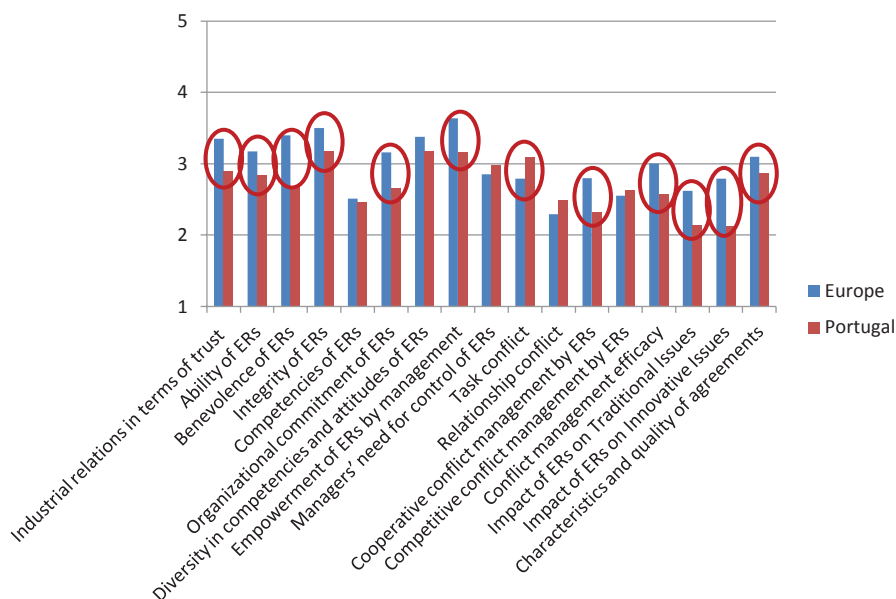


Fig. 10.1 Mean scores of main variables for Portuguese and European HR managers

The results suggest that in terms of conflict management strategies, Portuguese HR managers perceive that ERs use less *cooperative conflict management* approaches than the others European managers ($M=2.31$ in Portugal and $M=2.76$ in Europe). In fact, the absence of integrative strategies in the negotiation process may hinder win-win agreements and focus the discussion on the difference between parties.

Finally, the *impact of ERs on traditional issues* such as working hours or pay is lower in Portugal ($M=2.14$) than in Europe ($M=2.65$). The same pattern is found for the *impact of ERs on innovative issues* ($M=2.13$ in Portugal and $M=2.80$ in Europe). These results suggest that the overall impact of ERs is low which might be detrimental to the social dialogue.

10.4 Suggestions Made by Employers to Improve Social Dialogue in Portugal

Summarizing the results of this study, there is clearly a general opinion that ERs still have a very rigid and extreme position and that innovation and change is needed. This study also indicates that there is a distinction between the members of the WC and shop stewards. HR managers have the perception that the members of the WC are closer to the organization and more distant from politics and that shop stewards are the contrary. The more ideological the ERs are, the further away they are from

the organization's financial reality. The respondents suggest renewing those in the role of shop stewards—with younger, more clear-minded people, who are more in touch with the social change which is occurring currently. At the same time, HR managers perceive a lack of competencies and knowledge which leads to a lack of participation and rigid, inflexible positions. Regarding the improvement of competencies, respondents proposed some training in the skills necessary for their role. However, there is, overall, a positive relationship between ERs and HR managers or, at least, an effort to create positive relations as the HR managers recognize the importance of having ERs. Regarding organizational conflicts, there are some small-scale conflicts that are due mostly to changes and the inflexible attitude of ERs.

Portuguese HR managers have made some suggestions to improve Social Dialogue that are summarized below:

More Open Attitude of ERs There is a general opinion that if ERs were more open-minded and less rigid, different things could be done in organizations. ERs are still focused on protecting the workers too much, regardless if they are right or wrong, and ERs should have a more global view of an organization's sustainability. This is linked to being more realistic and more aware of the current economic reality, which could lead to agreements with a greater quality. Therefore, HR managers have referred to the fact that ERs must be aware of the changes in society that are taking place and that organizational change must happen too.

Improvement of Knowledge and Competencies As showed by the reports, HR managers believe that there is lack of competencies and lack of knowledge among ERs. On the one hand, HR managers have proposed the renewal of ERs—younger people with a clear mind. The replacement of the ERs would bring in younger people with more flexible views. To do this, the role of ERs must be attractive. Further, HR managers spoke about the importance of ERs being aware of the economic reality of the organization and knowing the organization that they are working at. HR managers also proposed training in global management competencies, communication competencies and training in social competencies, such as being polite. Overall, all HR managers pointed out that a WC should represent all the sectors of the company and manage common aspects for the employees.

Collective Bargaining According to the respondents, collective bargaining and workers' synchronization should be the most important thing in organizations. Respondents spoke about bringing shop stewards, members of the WC and unions to the negotiations. Most HR managers said that this model would allow the creation of joint projects and joint reflections that could be very important to an organization's growth.

Positive Climate for Industrial Relations As was said, all respondents have a positive and respectful relationship concerning ERs. Some of them even have a personal relationship with them. This relationship is characterized mostly by proximity. Respondents said that having a positive industrial climate is very important because it creates proximity with the workers, more focus in the organization and less recourse to strikes.

10.5 Discussion on the Expectations of Portuguese Employers Concerning the Roles, Attitudes and Competencies of ERs

In recent years, industrial relations and social dialogue in Portugal are strongly influenced by economic austerity policies. This new reality questions the traditional role of trade unions and poses important challenges not only to Unions and ERs but also to HR managers. In this study we were particularly interested in the HR managers view.

HRs have perceived that change is necessary in order to create more flexibility, employability, responsibility and more participation and dialogue within organizations. These results concur with those obtained by Munduate et al. (2012) where they analyzed the ERs' perception.

I think it's not a question of training. It is necessary to renew trade unions. We need younger people who are not contaminated by past practices. (HR manager, production sector)

There is a general perception among HR managers that unions are far from the current reality of organizations, namely drastic reduction in resources, substantial tax increases, and new legal constraints. The expectations that HRs have about ERs are low, mostly because of their generally rigid and inflexible positions. In HR managers view, ERs want to negotiate in the same way, with the same level of requirements, even when everything changed.

Over the past 2 years, we have had several changes. Changes which naturally affect the company. The social conflict within the company has essentially been through these changes. In the current context it does not make sense. But change is very difficult. And the conflict has primarily been for that reason. (HR manager, transports sector)

Nevertheless, HR managers want to involve ERs in collective bargaining and in joint projects to promote the sustainability of the organization. Simultaneously, ERs would also like to participate more in the strategy for the future of the organization. However, when both parties dialogue, there are still some small-scale conflicts and very different points of view.

Organizational change must also be taken. And we could not continue fixed to certain types of benefits that are comfortable, it is true, but they no longer make any sense. It's difficult to change. (HR manager, transports' sector)

The dialogue between the parties is still very much focused on the wages, impairing progress on the other matters. The collective bargaining ends up being a minimal negotiation, progressively disconnected from the reality of the company. However, HRs want to reinforce collective bargaining. ERs have to be able to pass from simply making demands, which always requires more and more rights, to a policy that combines demands, negotiation and partnership. Greater attention to maintaining jobs, rejecting conflict just for the sake of it and cooperation within an overall framework of competitiveness is necessary (Ferreira 2004).

Usually there is an annual meeting where the union basically wants to know what is our position in terms of wages. That's basically it. (HR manager, production sector)

The participation of ERs in decisions and in the strategies of the organizations has to be assumed as a priority, using new processes, namely: *establishment of a trusting relationship*—a trusting relationship will encourage the sharing of information between parties. The parties have to assume and believe that negotiation will bring more benefits than competition; *asking questions and providing information*—one way of obtaining information between parties is to provide some indication of what each desires. Thereby, providing a sign for the other part to also provide some information about their preferences too; and *present simultaneous proposals*—the presentation of two or more proposals of equal value and including various items provides information about the preferences and interests of the parties (Simões 2013).

Finally, there is the question of the renewal of the frameworks in ERs that was referred to by the respondents. There is a problem of the representativeness among young workers. The respondents pointed out the need to make the work of an ERs attractive to young workers. In conclusion, as one of the respondents said, ERs are increasingly necessary to assure that economic progress is accompanied by social progress.

The results of this study clearly point out an emerging set of topics that Portugal will certainly need to address in the coming years to promote effective labor relations. These points do not arise only from the current economic crisis. The economic crisis has somehow accentuated the weaknesses in the actual social dialogue.

This is a time of change. This is a time to strengthen relations between ERs and employers to find innovative and flexible solutions that meet the needs of employees and employers. Portugal needs to increase its competitiveness, and we believe that it is rooted in organizations where the individual, group, managers, and unions dynamics influence their overall performance.

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Chapter 11

Employee Representatives in Spain.

Which are the Perceptions and Expectations by Employers?

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The current Spanish industrial relations climate is very specific in comparison to the rest of Europe. First, Spain is one of the European countries that has been most affected by the financial and economic crises (Aiginger 2013; Sanz de Miguel 2013). Second, Spain has a particularly competitive industrial relations climate with a strong tradition of class unions and a centralized collective bargaining system, in addition to an important legal coverage of the union actions (Banyuls et al. 2009; Benito 2012). Thirdly, the financial crisis and the external debt have led to the imposition of austerity measures from the EU, which have put both the government and the social partners under strong pressure. Thus, Spain has experimented a period of unprecedented reforms, particularly from the beginning of 2010 onwards (Fishman 2012). Fourthly, the changes in regulations in the labor market, employment policies and the structure of the collective bargaining—embedded in a context of constant socio-economical decay—have influenced the role of the social agents, levelling the way towards a decentralized system and a renovation of the institutional framework. These changes and the challenges they involve have placed ERs as key parts at the organizational level, with an important role in social innovation and the competitiveness of the organization. We analyze the role of ERs in the current

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context in which labor relations are embedded in Spain. How is this role perceived by management and what do they expect from ERs in this new context?

This chapter will start by describing labor relations in Spain, since the legal and historical framework are key for understanding the role of ERs in the different European industrial relations systems (Elgoibar 2013; Hyman 2005). The results of the study as well as the strategies for the improvement of social dialogue proposed and promoted by the European Commission (2010) are covered in the present study.

11.1 The Context: Industrial Relations in Spain

The changes carried out in labor market and economy policies haven't resulted in an employment growth as expected, instead cohesion has become strongly threatened, and most of the socioeconomic imbalances still remain. The costs of the crisis include the loss of wealth, but also of rights and guarantees for citizens, as well as an increase of poverty, risks of social exclusion, inequality and deterioration of social integration (Molina and Miguelez 2013; Unceta et al. 2014). The effects of the crisis—initiated in 2008—highlight its complexity, severity, permanence and persistence throughout the last years (Ramos and Peiró 2014). According to the high unemployment rate, authors such as Fishman (2012) state that the changes implemented have suffered from an inability to identify and act on the country's genuine structural shortfalls and instead have repeatedly attempted to address chronically high unemployment through labor market deregulation. Other authors (Carballo-Cruz; Laborda 2010), explain that the increase of labor costs in the pre-crisis period reduced the Spanish competitiveness. Therefore, with the arrival of the crisis the organizations have been forced to reduce costs in order to maintain their market and this has been done by a reduction of the workforce. It has been related to the structural characteristics of the Spanish labor market, with low flexibility in wages and hours, which implies that reducing relative costs is only possible by adjusting or reducing workforce. At the same time, it's important to consider that the crisis has greatly affected an economy based on intensive personal services, but not on knowledge-intensive business services (construction, hotel industry and tourism, service to people), a very divided labor market (between the insiders or protected workers and the outsiders or workers who are at the borders of this classic model, unemployed or with precarious jobs), low productivity and the persistence of the housing bubble which shows itself as untenable (Ramos and Peiró 2014).

Therefore, understanding the national system, its characteristics and limits becomes essential to explore how to improve the social dialogue and the role of the social partners involved in the process. We will take a brief look at the sociopolitical and socioeconomic traditions that have shaped the employment relations' ideology in Spain (Martínez-Lucio and Weston 2007) and that are helpful when interpreting the development of social dialogue in austerity times.

11.1.1 The Historical Background of Spanish Industrial Relations

The dictatorial regime in Spain (1939–1977) prohibited the freedom of association and the right to carry out industrial actions in organizations (Munduate 1993; Munduate et al. 1994). During the Franco era, production was mainly oriented to domestic markets with low wages and a majority of low skilled workers (Banyuls et al. 2009). The model combined economic growth with poor labor and social conditions, and high inequalities in terms of class and gender, as well as low trust between employers and employees (Miguélez and Prieto 2009).

The Spanish transition towards democracy at a time of deep industrial restructuring (1975–1982) settled powerful reforms (Sánchez-Cuenca and Aguilar 2009), regarding economic measures (social pacts as the “Moncloa Agreements” in early 1980s), freedom of association (the agreement of the Union Freedom in 1978) and workers’ rights (Spanish Workers’ Statute in 1979). Social dialogue played a key role as a socioeconomic governance mechanism during the country’s return to democracy. The Spanish Workers’ Statute established the workers’ rights and promoted a centralized collective bargaining model. It was a counterweight to the long period of no union protection of workers. Therefore, ERs’ recognition in Spain is one of the youngest in Western Europe and the tradition of adversarial and confrontational relations generated during the Franco era still persists (Elgoibar et al. 2012; Martinez-Lucio 2008; Rocha 2010). With the support on the legal framework and the centralized model of labor relations, the union transferred action to the institutional action in business and consequently also to the collective bargaining. The period of social pacts in the early 1980s was followed by increasing conflict between the socialist government (elected in 1982) and the TUs, due to a liberal politic promoted by the government.

During the crisis of the early 1990s, the lack of consensus between the government and the social partners brought a unilateral regulation of the labor market and collective bargaining. The government refused to support a centralized wage settlement. Between 1986 and 1994, the discontent of workers with this economic policy was expressed through three general strikes (Rigby and Lawlor 1994). The neo-liberal climate—characterized by temporary contracts and low salaries—created a new group of workers called “working poor” (Ruiz-Galvez Juzgado 2012). Working poor rates in Spain have been among the highest in Europe since then (Duran and Isusi 2010). Low salaries and unemployment continue to characterize the Spanish industrial relations system nowadays (Eurostat 2013).

Throughout the 1990s the first lines of flexibility were drawn. Nevertheless, collective labor agreements still had a tendency to be rigid and centralized. The flexibility established the possibility to even break away the wage of a company from the sector agreement, although only under authorization from the sectorial bargaining committee.

With the first signs of overcoming the crisis (1995), social dialogue was resumed and the ongoing period of growth was characterized as very prosperous in terms of

social pacts. More than 20 national agreements were signed between social partners with overall indications for the development of collective bargaining with moderate wage increases that have prevailed over time. During these years and until the beginning of the current crisis (2008), Spain was able to improve the employment rate. However, it has remained below the European average (Ruiz-Galvez Juzgado 2012). The main sectors that contributed to the improvement were construction and real estate, as well as the tourism sector. Therefore, the bursting of the housing market bubble has been one of the main causes of the dramatic unemployment rate increase in the early stages of the crisis (Duran and Isusi 2010). However, other factors have contributed to the spread of unemployment to most sectors of the economy in a second stage of the crisis. A relevant factor had to do with the financial character of the economic crisis and the difficulty organizations were having in accessing credit. At the same time, the banking sector vulnerability was related to its policy of providing easy access to finance private consumption during the growth years (Molina and Miguelez 2013).

An important aspect of the Spanish socioeconomic context during the time of economic boom (1998–2007) has been its inability to cope with reforms related to the structural weaknesses of the Spanish economy. Together with the other southern European economies, Spain shows a low and stagnant productivity that is related to structural production weaknesses (Mas et al. 2012). In this way, social dialogue, which had served as an essential modernization tool during the transition and first years of democracy and as the basis of labor relations in Spain, now found itself having to confront the crisis with a difficult socioeconomic context.

11.1.2 Social Dialogue Over the Period of Financial Crisis (2008–2013)

One of the main defining features of the effects of the international financial crisis on the Spanish economy has been the continuous growth of the unemployment rate (26,03% in 2013), and a dramatic youth unemployment of over 55% (Statistic National Institute 2013). Under these circumstances, many observers have tended to blame the Spanish collective bargaining system, characterized by a relatively high degree of centralization and coordination, accusing it of being too rigid and impeding companies from modifying working arrangements in order to adjust to the new demands (Sanz de Miguel 2013). This rigidity implies that reducing relative costs entails reducing workforce (Laborda 2010), due to a marked division between the *insiders* and the *outsiders* of the labor market. However, as mentioned earlier, the collective bargaining system and labor market management have not been the only responsible for the increase of unemployment. Other aspects of the crisis have also influenced this, for example the loss of capital and inversion decrease, the credit crisis (lack of liquid funds for credits) and the fiscal crisis (based on non-sustainable incomes produced mainly by the housing bubble) (Pérez García 2011; 2012). It is also true that the social agents have not been able to find a way of promoting

innovative social dialogue that would pave the way out of the difficult situation that the country is going through. The inflexibility of the system has possibly acted as a “red line” in the chance of achieving constructive agreements that could help in the process, furthermore controlling the unemployment rate.

Although during the first stage of the crisis social agents were engaged in developing measures for making collective agreements and labor market institutions more flexible, the results were not productive. Both collective agreements—the one carried out in 2010 and the one from 2011—were unilaterally ruled. Exclusively the social tripartite and the economic agreement signed in 2011 were significant to this direction of consensus in structural reforms. Social dialogue also wasn’t present during the composition of the Labor Law Reform (2012), which was approved without the consultation or negotiation with the social partners. However, previous experiences and studies have shown that participation of social actors in the decision making process would contribute to higher commitment to the decisions taken (Richardson et al. 2010).

The newly promoted labor market strategies for mitigating the effects of the financial crisis and creating employment are characterized as (Molina and Miguelez 2013): (a) enhanced unilateral regulatory capacity of the employer; (b) wage moderation by strengthening collective bargaining capacities at organizational level and widening the scope of negotiation (e.g. aiming at a better link between real wages and productivity), and (c) a dynamic of balance between the demands received by the organization and the provision of personnel, through measures of internal and functional flexibility. These radical measures involve a scenario of higher internal flexibility but at the same time a higher vulnerability of the worker, as these flexibility criteria are not negotiated between management and employees.

The balance of the achievements reached through social dialogue in times of crisis doesn’t look encouraging. The structural reforms of the labor market together with the austerity measures imposed by supranational authorities have weakened the participation of social agents and social dialogue. The threat on social cohesion has been increased by the progressive deterioration of the unemployment protection, a move away from universal coverage, and the social cuts that mainly affect the health and education sectors (Unceta et al. 2014). Furthermore, the expected positive effects on job creation have not yet been reflected in the statistics. Under these circumstances, how are social partners facing social dialogue? Particularly we explore the employers’ perspective about the ERs’ role.¹ Before talking about the results of the study, we briefly describe the system of employee representation in Spain, with the goal of better framing the opinions of employers about this role.

Union density in Spain is relatively low at around 16%; however, the overall level of coverage is high at around 70 % of the total workforce. Workplace representation in Spain is articulated through a double system of representation. One side is the so-called unitary representation. These representatives are elected by all

¹ The ERs’ perspectives have been analyzed in a previous publication: Munduate et al. (2012). Ten steps for empowering employee representatives in the new European industrial relations. Madrid: McGraw Hill.

workers inside the organization and represent the complete workforce. And on the other side you have the union representatives (shop stewards), who are elected only by unionized workers and represent the union in the organization. Both types are members of the works council and both are paid by the employer for their work as representatives. Usually, social elections in Spain take place every 4 years. There are two dominant union confederations in Spain, Comisiones Obreras (CCOO) and the Unión General de Trabajadores (UGT), although there are other important groupings at regional level and in the public sector.

According to the collective bargaining system, negotiations take place at national, sectorial and company level. An annual national agreement provides the framework for lower-level bargaining. As a result from decentralization, currently agreements at organizational level are able to set terms on wages, hours, grading and other issues, such as work-life balance, irrespective of the industry-level agreements. In addition, when a company faces particular financial difficulties, it is able to suspend many of the agreed terms and conditions. The ERs should be consulted on these proposals but if they do not agree the issue goes to arbitration for a decision (Fulton 2013).

11.2 Current Situation of the ERs. What do Employers Say? Conclusions Drawn from the Interviews

In this section we summarize the most relevant indicators pointed out by the employers in the interviews regarding the profile of the ERs

The section offers an analysis of 10 semi-structured interviews of Spanish HR managers representing medium to large organizations in various sectors of the Spanish economy. The research examined a European investment bank, two large international energy organizations, two leading international food and drinking organizations, a regional construction organization, a national pharmaceutical distribution organization, a national metal sector organization, a regional transport organization and a traditional large public university. The interviews lasted approximately one hour and a variety of topics related to social dialogue and the role of ERs in Spain were discussed. In the case of multinational organizations the interviews were focused on national activities and labor relations.

The employers' main concerns and expectations regarding labor relations' structures and the role of ERs are summarized below. Although they can't be generalized to all sectors, their reasonings about the following issues matched highly.

1. **Complex structure of employee representation.** Employers think that the structure of union representation is complex and oversized (overestimated) both in the number of hours assigned to union activities and the number of people involved in such representation. They suggest reducing the structure in order to promote a less costly and effective social dialogue. The reason for this complexity in worker representation has a lot to do with the regulation made during

the transition to democracy to counteract the large period of absence of worker representation, as mentioned before. Managers also think that it's important that the ER structure becomes more flexible and specialized in order to have smaller Work Councils, with more experts prepared to make decisions in different fields (e.g. financial, social). As long as the limits are respected, more flexibility in this issue could help both sides, allowing employers to reduce the representation hours in times of high demand and allowing ERs to request more time when it's needed (e.g., during the negotiation of a collective agreement).

2. **Need for professionalism.** There is a general consensus among managers about the need to professionalize the ERs' role and training on technical competencies. To be professional doesn't mean to be ideological and vice versa, according to the employers. In this way, in order to improve social dialogue, employers aim for professionalized ERs, ERs for whom ideology is not in the center of their actions and decisions, rather competencies and professionalism. In this regard, some employers distinguish between the profile of Works Council members elected by the employees, and the profile of those union representatives appointed by trade unions. The latter are seen as having a stronger ideological orientation.
3. **Trade unions with one voice.** Spanish managers also pointed out that currently there is rivalry between trade unions, both during elections and during labor negotiations. Managers state that the members of the different union sections at the Work Council's level do not speak with one voice making social dialogue more difficult.
4. **Openness to innovation.** Employers generally point out that there is a systematic refusal to any change or innovation by ERs. Respondents suggest that training should be the way to change the initial opposition to innovation and change. Management representatives emphasize the desire to find competent ERs, trained people with whom they can discuss the development and actual situation of the company and also negotiate over the conflicting interests which may arise. Between the respondents there's a widespread belief that what they find is completely the opposite: lack of technical skills, systematic opposition and unawareness of the company dynamics. All of the sectors agree that ERs should be more innovative and adapt to the evolution of the company and sector. The university HR manager proposes that training should be systematized and oriented to the professionalization of ERs.
5. **Restoring prestige.** It's important to highlight the low prestige of the role of ERs, inside and outside the organization. Although it is accepted that ERs are as engaged and enthusiastic as their peers, they think there are also cases in which the role is occupied by people with a low profile of skills and performance, who do it to protect themselves against management. The Spanish regulations forbid the lay-off of workers in union representation roles. Employers believe that the role of ER is usually detrimental for a worker's career development; therefore the people with professional potential are not interested in carrying out this position efficiently. Managers point out the need to restore the prestige of the role of ERs in order to attract young people with leadership skills and technical

knowledge. Furthermore, this role allows candidates to learn about the company from the inside and to participate in decision making, which can be an advantage for acquiring competences.

6. **Investing in competencies.** Concerning the competencies, there is a general agreement that the level is too low. In the interviews and in the surveys, managers expressed that ERs lack the knowledge and competencies necessary for their role and for successful negotiation. However, there's a widespread will across Spanish managers to meet and work with ERs who are prepared, competent and open to flexibility and change.

Additionally, managers perceive a lack of commitment and involvement with the organization's strategy from the ERs' side. The industrial sector is especially focused on the lack of representation of the overall workforce and a majority of ERs working only for their voters. According to the respondents, many ERs are concerned about self-protectionism instead of being more flexible, working on anticipation and prevention of conflicts.

7. **Enhancing the antecedents of trust.** Spanish managers point out that many ERs lack the characteristics that they consider as antecedents for creating a trusting relationship, such as the ability or control of specific competences; benevolence, or considering that ERs would do good to the organization; and integrity, or that ERs adhere to a set of principles that the managers find acceptable such as reliability, fairness, justice and consistency. Although all sectors agree that both unions and management distrust each other, it is highlighted by managers that transparency, sensibility towards the needs of both sides, mutual respect and the capacity to understand the information of the other party are needed in order to translate this into integrative agreements.

11.3 Perceptions of Employers on ERs: Conclusions Drawn from the Surveys

Results are presented based on the survey among 84 Spanish HR managers of different sectors, compared to the score of 530 HR managers from 10 other countries in Europe (Belgium, Denmark, Estonia, France, Germany, Italy, The Netherlands, Poland, Portugal and the UK). T-tests were conducted to analyze differences between Spanish HR and the rest of European HR managers participating in this study. The significant differences between the Spanish and the European mean have been circled in Fig. 11.1.

In Fig. 11.1 we can see a graph with each variable's mean comparison between Europe and Spain. Spain shows significant differences with Europe in 10 variables, reinforcing the uniqueness of the Spanish industrial relations context.

The level of *trust* between managers and ERs is significantly lower in Spain ($M=2.99$) than in Europe ($M=3.31$). This is also the case for *ability* of ERs ($M=2.90$ in Spain and $M=3.14$ in Europe), *benevolence* of ERs ($M=2.99$ in Spain and $M=3.35$ in Europe) and *integrity* of ERs ($M=3.22$ in Spain and $M=3.47$ in

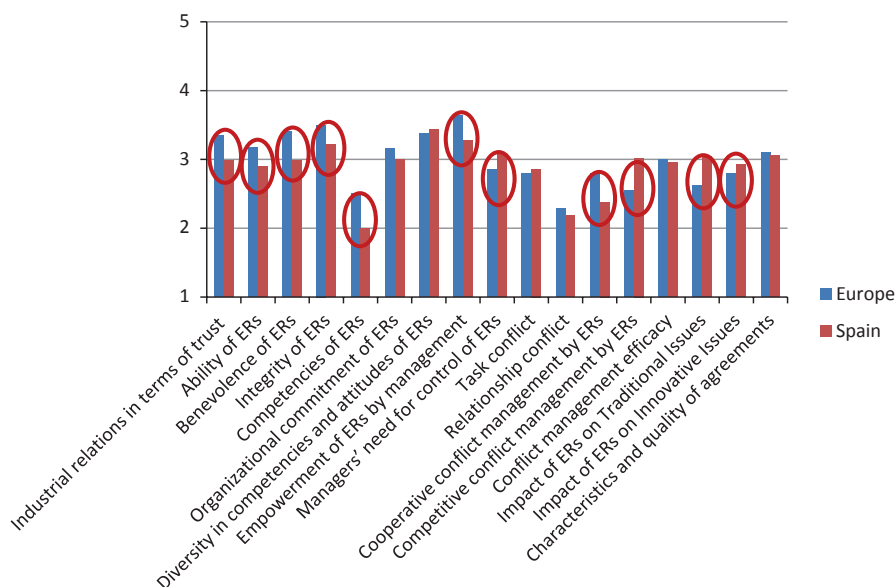


Fig. 11.1 Mean scores of main variables for Spanish and European HR managers

Europe). The first variable is defined by the views HR managers have of the trusting relationship between them and ERs. The following three account for the levels of trustworthiness of ERs as perceived by HR management, that is to say, to what extent do managers perceive ERs as having the right level of abilities, benevolence and integrity to be able to trust in them. Also for these three antecedents of trust, the mean in Spain is significantly lower than the European mean. These findings suggest that there's a general lack of trust between ERs and management.

The results suggest that HR managers' perception of ERs' *competencies* is lower in Spain ($M=1.99$) than in Europe ($M=2.47$). Competencies in this study refer to human resources management, establishing and maintaining relationships with management, labor law, social skills, business and management, negotiation and conflict management, organizational change and business mergers, stress management and managing complex information (on strategy and change).

Another closely related finding is the *empowerment* of ERs by management, which was measured through the following item "I support employee representatives in terms of their influence over issues that are important to the organization". Spain scores below ($M=3.27$) the European average ($M=3.61$). This finding suggests that the European managers empower ERs more than in Spain, to influence in the organizational decisions.

Moreover, in Spain *managers need for control* ($M=3.09$) scores above the European average ($M=2.86$). This also indicates a desire to keep the activities of ERs limited and controlled.

In terms of conflict management strategies, Spanish HR managers perceive that ERs use a clearly competitive approach in contrast to a cooperative one. *Cooperative conflict management by ERs* scores lower ($M=2.38$) than the European average ($M=2.76$). Accordingly, *competitive conflict management by ERs* ($M=3.02$) exceeds the European mean ($M=2.59$).

However, the *impact by ERs on traditional issues* such as working hours or pay appears to be higher in Spain ($M=3.04$) than in Europe ($M=2.65$). This finding is probably more related to the normative and centralized collective bargaining system than to an actual cooperative social dialogue, so it should be interpreted with caution.

11.4 Suggestions Given by Employers to Improve Social Dialogue in Spain

Both the qualitative and quantitative results of this study clearly point out that Spanish managers perceive a great need for improvements in different aspects of the labor relations' model and particularly in the competencies and attitudes of ERs in Spain.

The main problems expressed by the managers in the interviews are in accordance to the outcomes of the survey, explained in Sect. 11.3. There's a widespread belief that the current model of labor relations is rigid and stuck on needs of the past, and progress is needed in order to adapt to the current needs. Managers consider that the number of ERs and the hours they spend on union activities is too high. Also, they believe that there are ERs who are not committed to the organization but to the union, meaning that they are focusing more on the union ideology than on finding the best solution for the organization (not always incompatible with the best solution for the workers). They propose therefore, to change the election system so ERs will truly represent the interests of all employees in the organization, not only of the unions.

At the same time, managers perceive a lack of competencies and knowledge in ERs. Managers believe that the current situation of stiffness, ideological orientation and lack of competencies, leads to an inflexible position on the ERs' side and a systematic refusal to any innovation. Therefore, the promotion of training in soft and hard skills is needed to rely on more competent ERs who have higher and more productive influence on the decision making process.

Furthermore, managers think they show a competitive conflict management behavior based on the class struggle tradition of Spanish unions. Another reason related to the competitive approach is the low trust between the parties. In this sense, it appears as if the low information sharing and low participation in the decision-making process—together with the low trust between parties—place ERs in a weaker position at the table, leading ERs to use a more competitive rather than a cooperative pattern in conflicts.

Spanish managers point out some suggestions to improve Social Dialogue that are summarized below.

1. Concerning the **ERs' structure** there is agreement between managers that it's complex and over dimensioned. Both the number of ERs and the hours they spend working on activities for the union are believed to be too high. In addition, Spanish managers propose to change the current ER election system, especially of the shop stewards—who are elected by union members—which in their view promotes a system in which ERs only defend the interests of the union members. Instead, they propose a system that can attract well prepared, competent people; and also young people with potential, as has been discussed in Sect. 11.3.
2. As seen in the interviews, Spanish managers would like to avoid the **rivalry between trade unions**. Employers emphasize the importance of negotiating with a strong voice and they therefore believe that the main trade unions (UGT and CCOO) should be joined into one because they are on the same side of the table.
3. As clearly shown by the interviews and the surveys, managers believe that ERs should improve their knowledge **and competencies** for carrying out their role, consequentially improving social dialogue at organizational level. Spanish managers show great motivation for working with competent ERs. They propose to improve the selection process for ERs, together with training in subjects such as business management, economy and communication skills. Employers point out that it's important to make the role attractive to competent people, and especially orient it towards those employees who could have a more flexible attitude to confront the difficulties that may arise.
4. Develop a more open **attitude of ERs**. Spanish employers believe training in the competences mentioned above also influences the openness to ideas and opportunities, and could therefore help ERs to take into account the interests of the organization and be more flexible during negotiations. Managers believe Spanish ERs are rigid and have an attitude of “never giving in” and this cannot lead to quality agreements. Therefore, training in subjects like business management, finance and negotiation skills can give ERs more tools to work with; this is, to look for integrative solutions for the differences that arise in social dialogue.
5. Improving the **industrial relations climate** is perceived by employers as an urgent matter, especially in the current strong crisis situation. As they suggest, apart from the historical tradition of competitive industrial relations in Spain, the increase in unemployment, general strikes and job insecurity due to restructuration processes and downsizings together with the austerity policies imposed by supranational authorities are causing organizational conflicts and a tense climate for industrial relations. This shapes one of the worst climates in Europe, following the surveys of the current study. Therefore, managers propose to empower ERs and consequentially improve their role and promote their career development. The starting point of this career is attracting the best people to carry out the role, providing them with training in the competencies indicated above and promoting a trusty culture that we address below.
6. Spanish management systematically highlights the importance of promoting a **trusting culture**. In order to do so, a suggestion given by most employers is to influence the policies developed by management as well as those developed by

ERs. They point out the need to be transparent and to promote open communication, together with sensitivity towards employees. Managers refer once again to the need for ERs training to be able to communicate more effectively about different and complex topics related to organizational dynamics and therefore improve trust between the parties. This implication of ERs in organizational issues, together with transparency on the management's side, could promote the culture of trust that Spanish managers so often refer to.

7. Managers state that both parties—managers and employees—should participate in the **decision making process and in the organization's strategy**. They believe that this is only possible with competent managers and ERs. Furthermore, they express that this participation must involve a commitment between the parties, improving social dialogue in itself in Spain.
8. Managers expressed that the **conflict management** strategies used by Spanish ERs need to move away from competition. Managers state that training in integrative strategies is crucial, alongside strengthening the “we're in this together” attitude on both sides.
9. Regarding the new framework provided by the Spanish labor market reform, collective bargaining is considered by managers as a potential instrument to gain flexibility and to improve joint reflection. Altogether, managers propose collective bargaining as a very active instrument, which would adapt to the changes in the context and would always have a sense of reality. Moreover, this decentralized model of collective bargaining would serve as a preventive tool, making it possible to arrive to early solutions and therefore preventing possible conflictive and dysfunctional situations.
10. Finally, Spanish managers have indicated that this model of collective bargaining could be of great help for **smaller companies**, which sometimes struggle in the negotiations for collective agreements. Managers proposes a model of collective bargaining that would lay out the basic lines for negotiation and prevention of problems in the main sectors, but at the same time would leave room for flexibility in its application.

11.5 Discussion on Expectations of Spanish Employers on ERs' Roles, Attitudes and Competences

This study has analyzed the role and structures of ERs in Spain and has provided some measures for constructing a more competitive role for confronting the new requirements of an economy in times of austerity, from the perspective of HR managers. These measures must be considered in the context of industrial relations and in line with the global measures which are been proposed with Spain's recovery in focus (Pérez García 2013; Ramos and Peiró 2014). They are related to: (a) the need to prepare and train human resources as a whole: improvement of the training of employers and employees, business training for graduates, continuous educa-

tion, active employment policies to qualify unemployed people; (b) to use human resources more effectively for increasing productivity, which is being achieved by eliminating the less productive jobs, at the same time as new jobs are created; (c) to advance in the intermediation tasks to promote employment and part-time work; and (d) facilitating entrepreneurship, reducing bureaucratic obstacles and supporting it with expert knowledge. The proposals for reconstructing the role of ERs in Spain are embedded in this context of economic recovery and social innovation.

Two of the most relevant findings of the current research refer to the experiences of the managers in relation to the significantly different role of the ERs in Spain in comparison to those in other European countries, and to the managers' common expectations about the changes they want to see in this role.

The key differential issue of the Spanish profile has to do with the context of crisis and economic recession that the country is currently going through. The co-operation climate is put under high stress and there's an additional large opposition in social relationships. ERs and managers perceive and behave as two opposed groups, subject to high levels of conflict. As Deutsch indicates (2006), in managing conflict competitively, people convey that they want to use the conflict to promote their goals at the expenses of the other. They want to "win" and have the other "lose". In addition to the current crisis, another factor that could maximize confrontation between the parties is the labor relations tradition in Spain. If we interpret this in terms of conflict cultures or socially shared norms for how conflict should be managed (Gelfand et al. 2012), the relations tradition in Spain would be close to what has been called a *dominating conflict culture*, characterized by conflict management norms that encourage active confrontation in order to publicly win conflicts (Gelfand et al. 2008). Underlying this conflict culture is the assumption that individuals have the agency to openly deal with conflict and that disagreeable or competitive behaviors are appropriate and normative. Normative behaviors for handling conflicts may include direct confrontations and heated arguments in which individuals are reluctant to give in, yelling and shouting matches, or threats and warnings (Gelfand et al. 2012). Dominating, competition, and active confrontation have been associated with reduced viability at interpersonal and group relationship level (Gelfand et al. 2008). Managers' reports on industrial relations and conflict management in Spain don't indicate the best scenario. However, there's a shared interest in improving this among Spanish employers.

Another differential aspect of the Spanish profile refers to the combination of both a perceived lack of competencies of ERs regarding the dynamics of the organization, and a lack of trust in them from managers. In the same direction, research has shown that trustors are concerned about vulnerability associated with the potential loss from trusting. Ergo, trusting involves a great risk because it is done with expectations of future behaviors. Therefore, in order to trust the other party and assume the risk, people need to perceive certain characteristics in them (Özer et al. 2011). In this sense, to the extent that the managers can engender positive perceptions in the ERs—that is, ERs being able, benevolent and of integrity—a trusting relationship is more likely to take place (Fulmer and Gelfand 2012). Developing a trusting re-

lationship is essential to be able to understand organizational dynamics as well as promoting organizational productivity and team performance (Hempel et al. 2009).

Although the characteristics of the ERs profile as described by the employers don't encourage facing the urgency of the development of constructive dialogue in Spain, the second finding however does give hope and shows a change of trend in the relationships between social partners. The relevance of this change means the discovery of the Philosophers' stone for labor relations, and it's related to the expectations expressed by managers when referring to the role and structure of ERs. In this sense, employers show that the model of labor relations—which emerged in the industrial era at the beginning of the twentieth century—that has prevailed till today is not viable in the current era of knowledge of the twenty-first century. They observe that we are in a moment of historical transition of the model, from one based on distrust, control and systematic antagonism—more in line with tyranny of the Taylorist principles of production and management—to a model of social dialogue, with flexibility, based on mutual trust and confidence among the parties involved—more in line with the alchemy of flexibility and trust (Stone and Arthurs 2013). As indicated by the European Commission (2010), the problem-solving potential of social dialogue will be crucial, in the long term, for socially fair and well managed transition within the EU zone. Implementing this model of social dialogue ties up with the expressed will by Spanish managers to work with competent counterparts at the negotiation table, partners who have a strategic vision of the dynamics of the organization and with whom they can work vis-à-vis through transparency, in a constructive and innovative dialogue about issues of common interest relating to economic and social policy. They point out that empowering ERs so that they can achieve these competencies, together with the professionalization of their role, are further challenges for both ERs and employers, which will eventually allow ERs to have a sustainable and worthy career, with good social prestige. The transition from the tyranny of Taylorism to the alchemy of trust and flexibility requires new forms of participation, new structures of representation, and the strengthening of competences of all social partners.

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Chapter 12

Employee Representatives and Participation in the United Kingdom

Miguel Martínez-Lucio and Arjan B. Keizer

12.1 Introduction

This report draws on semi-structured interviews with leading Human Resources (HR) managers in ten organizations. They were approached through a range of contacts and prior research links, and can be considered representative of medium to large organizations in various sectors of the British economy. They are unlikely to be fully representative of the overall United Kingdom (UK) attitude towards ERs and social dialogue as they are mostly firms with embedded participation traditions of one form or another. Nevertheless, they appear to present us with an opportunity to discuss various aspects of the British labor and employment relations system.

The research examined two multinational petrochemical firms (in one case two interviews were conducted with a national and international manager in employment relations), a European investment bank, a leading national supermarket, a large city council, a central government organization related to employment relations activity, a traditional large research-led British university, a charity, a health service trust (part of the National Health Service), and a local housing organization that also runs several academy schools. In the case of the multinational organizations, the focus was solely on UK operations.

In addition, the report draws upon the findings of an accompanying survey. However, as explained in greater detail later in the report, there was a low response rate and the findings can be used tentatively at best.

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M. Euwema et al. (eds.), *Promoting Social Dialogue in European Organizations*,
Industrial Relations & Conflict Management 1, DOI 10.1007/978-3-319-08605-7_12

12.2 The Historical Context and Developments in Employee Representation

The UK has been classified as a liberal market economy (Hall and Soskice 2001) with a market-based employment regime (Gallie 2007) and an industrial relations regime described as (liberal) pluralism (Crouch 1993; Visser 1996). The state is relatively powerful but has generally acted in a less interventionist manner compared to northern European nations. In accordance with the ‘voluntarist’ tradition of industrial relations, TUs are predominantly ‘competitive’ in style (Meardi 2004). Hyman (2001) locates UK trade unionism between the competing interests of a class and market identity, due to its militant defense of the economic interests of union members and its suspicion of societal instruments of reform in favor of free collective bargaining, although this has been changing. There are few positive legal rights to collective representation per se. Collective representation is through recognition agreements that have been reached between employers and their workforce or following a ballot in favor of recognition. Holding such a ballot is not straightforward due to the need to have a certain level of TU membership prior to the vote (Perrett 2007). There are no works council elections as exist in a large part of the European Union (EU). The forms of representation that exist tend, in general terms although there are other forms, to be as follows:

1. Recognized unions who bargain with management and are consulted by them;
2. Consultative and information-based committees that involve elected ERs and/or TUs; and
3. Information and consultation committees that are based on (non-union) employee representatives selected by management.

Much of this diversity is due to the way in which industrial relations in the UK were regulated ‘from below’ and without direct state intervention for large parts of the early to mid-twentieth century. It is further linked to the political questioning of collective representation throughout the late twentieth century and early twenty-first century. Consultative mechanisms have been to a great extent disconnected from strong and formal legal pre-requisites, although in the public sector there has been a more extensive tradition of consultation dating back to the 1920s and 1930s (Sheldrake 1988). As a consequence, the structure of employee representation in the UK is distinct from the main European approach. Formal employee representation at organizational level is lower than in other European countries. This includes southern European countries that may not be characterized by corporatism and social partnership but nevertheless have a strong institutionalization of employee representation (European Commission 2009).

Increasingly, since the 1980s, there has been a shift from the former dominance of a trade union-style approach towards alternative types of ‘management-led’ employee representation. It can be argued that the UK is now a dual system of representation in two senses.

Firstly, union and non-union forms of collective representation sometimes co-exist in the same organization, although often within different divisions. However, as the findings of the study illustrate, most forms of participation within organizations have either a (strong) union role or rely on an alternative form and this appears to be different from the situation in many European countries. In the public sector, there are still strong collective systems based on trade unionism while in the private cases there tends to be a much greater role for alternative arrangements. Here worker representation is often developed by non-union elected employee representatives, also because union members—to the extent present—normally stand as individuals and not as representatives of TU in elections to consultative forums or councils. In all cases studied, the members on the forum were ‘appointed’ through elections, although these were sometimes fairly informal. Alonso (2001) views such developments in general as representing a new micro form of corporatism where business interests and objectives take precedence over social ones.

Secondly, the increase in more direct forms of representation and consultation is leading to the fragmentation of labor relations and has contributed to another dualism between more collective and more individual forms (Marchington and Wilkinson 2005). Instruments such as workforce surveys, quality circles and team briefings are becoming an important feature of many firms and workplaces, although this research has not focused on this dimension.

The findings show the UK case as a heterogeneous form of representation which has evolved over time, although the extent of independence among employee representatives and the autonomy of the representative processes are to be questioned at times. There is a wide diversity in structures, possibly much more so than on the continent, with a clear distinction between more established union structures and more recent participation initiatives. Within this diversity, there are further ‘groupings’ which show (strong) similarities: the public organizations, the large multinational companies (MNCs) with both UK and European participation structures, and the (smaller) domestic organizations where the informal aspects of relationships are paramount. In this respect, there is more to participation than is suggested by the aforementioned qualifications of the UK as a ‘liberal market economy’ with a voluntarist and liberal tradition in industrial relations. In many ways what we found was a variety of systems of participation and complex narratives sustaining and legitimating processes of representation. The latter illustrates an important degree of ‘negotiation’ over participation in relation to its legitimacy and effectiveness. Even when initiatives are management led, and even when the initiatives appeared mostly symbolic, the need to try and construct a framework of legitimacy was evident, even though the motives were normally concerned with controlling the remit of participation.

The relationship between union and non-union forms of participation proved particularly interesting. As mentioned, there were few organizations where both workers’ forums and unions played an active role. Some interviewees suggested that the forums or councils were there to counter potential union development. If there was both a forum and a union, this often concerned different parts of the organization such that the two would remain separate. For example, in the housing trust

the main part of the organization had an employee forum while the schools were unionized. At the petrochemical MNCs, there were small unionized areas, with the majority of employees represented only through the employee forum. There are also cases where HR managers said that there was no call for unions, partly because of the perceived success of the forum. So we saw complex labyrinths of representation and participation, which doubtlessly present opportunities to management but also present challenges to workers and even the organization as a whole.

The structures of participation were sometimes highly layered and complex as in the large national supermarket and the large city council which were both unionized. This raises specific questions about the capabilities of representatives (particularly further down these layers) and the location of the appropriate level or channels to discuss strategic matters. There were also special 'joint' management and worker representative working groups in some instances, related to the development of specific operational matters such as grievance and discipline which tended to contribute to the complexity. The time and resources provided to prepare for such work were more regulated where there was a stronger tradition of union representation. In the case of employee forums, the allocation of time was often limited to the meetings and was often at the discretion of and the responsibility of individual managers. We therefore need to be careful when discussing these forms of representation. Their constitution and structure are complex and not subject to clear regulatory guidelines, making them increasingly management-determined. As we will discuss later, this places management in a curious position of responsibility.

12.3 Current Situation of Employment Relations According to HR Managers

This section considers various dimensions in the relationship between HR managers and the systems of participation by focusing on the trust within these relationships, the attitudes and competence of ERs, the management of conflict, and the influence of the EU.

There did not appear to be any major issues relating to trust, according to the HR managers, even in the more trade union-oriented systems. In the case of the public sector (health service, civil service organization and the local authority), the experience and stability of worker representation meant that there was a long history of dialogue and ongoing reciprocity in the relationship between management and unions. While some managers spoke of the continuing influence of 'traditional' ways of thinking these were often commented on while referring to the overall flexibility and engagement of trade union representatives. In the private sector, the predominantly non-union ERs are less independent and are not backed up by a separate organizational structure as provided by a TU. With the remit of forums more limited and a challenge to management's decision-making role unlikely, issues of trust appear to be less critical. One therefore needs to be cautious of what is meant by trust. There was concern from HR managers that employee representatives did

not always have the experience or continuity required to be fully engaged with many matters. In these cases it was felt that there was no support for the individual, or that they lacked the required background and knowledge of the organization's history to allow them to contextualize and develop more proactive decision making. However, 'trust relations'—in general—do exist according to the HR interviewees, and confidentiality clauses or expectations on key issues were common and mutually respected. It was rare to see cases or instances where such confidentiality clauses—which are important for many partnership arrangements (Martinez-Lucio and Stuart 2005)—had been undermined. Overall, the evaluation of these roles and structures was positive, even in the more organized and traditional public sector organizations where the project identified a broad set of dialogues on organizational change and the response to welfare and state reforms. In fact, the dialogue appeared to be stronger here.

In many respects—as also outlined by Oxenbridge and Brown (2002)—the stronger cases of dialogue and participation showed extensive informal relationships and discussion between management and worker representatives. The findings illustrated how the relatively positive perceptions of trust emerged from informal and stable relationships. According to various HR managers the ability to understand and create a dialogue requires investment and a learning frame which sees individuals jointly work through critical incidents. In some cases (e.g. the charity), it was explicitly acknowledged that the development of a trust-based relationship requires long-term investment and engagement and cannot be taken for granted. In the case of the investment bank it was argued that it cannot be taken for granted that people will just involve themselves. In this respect, there was awareness in those cases with a less than collective approach that there was a risk and a challenge in not having 'ready-made' representatives or sources of participation as in trade unions. In many cases where there was no direct union presence, or where the form of representation ran parallel to and was not linked with the union structures of bargaining, the participatory structures of the forums or councils were more ad hoc and varied in their approach. This indicates that the burden of representation falls on organizations to administer. The fact that this form of representation can be open to abuse without a generalized process of representation and independent participation adds to the challenges involved.

In terms of attitudes and competence, there were mainly positive responses although HR managers generally felt that at lower levels of representation and participation there was some lack of understanding about how to form agendas for discussions and a lack of communication skills. Time management, agenda setting and preparation for meetings were some of the other issues raised by management although these were not seen as major problems in most cases (in the private sector cases these did appear to be more of an issue). In one case, there was reference to a 'verbose' yet effective representative in an employee forum. This was explained in terms of the individual having once been a trade unionist. The level of experience and ability was much stronger in more unionized organizations and in the public sector. Here the union provided support to the representatives and the dialogue was

much more continuous and grounded, although political differences between some unions in the case of the health and local government organizations were noticeable. Several interviewees (e.g. at the university, the housing trust and the city council) expressed concerns about the competence of some union representatives engaged at departmental level. The supermarket representative also expressed concern about the ability of representatives and the difficulty of recruiting them to the role lower down the chain of participation, at the level of the individual stores.

There were wider concerns about the availability of ERs. The more trade union-organized cases seemed to be able to generate representatives and resources for representation, although this was not the case in (private) organizations with few union members. In some cases, there were comments regarding the lack of representatives in the worker forums and lack of enthusiasm with regard to becoming a representative. This was the case, for example, at individual store level in the supermarket chain and in the non-unionized bank. One explanation could be the lack of understanding about such roles within an environment where participation is very much managed from above and not organically and independently developed within the workforce. There is also the possibility that such representative roles are highly complex and require extensive individual commitment (see Munduate et al. 2012). But the lack of interest or engagement could also be due to the limited remit of councils or local forms of participation (or at least the perception that this is the case). In some cases, interviewees emphasized the importance of 'role models' (e.g. the charity) or the importance of leadership among worker representatives (e.g. the housing trust). In others, there was some modest 'targeting' of 'promising' candidates due to limited interest among workers, or management not being satisfied with the incumbent member. There appeared to be general concern about the recruitment and renewal of employee representatives in those organizations without TUs.

The issues of trust, attitude and competence are in many cases linked to the importance of training. The research identified an interest in training representatives in more individualized non-TU cases. Training provision was sought from various bodies including the private Involvement and Participation Association (IPA) and the public Advisory, Conciliation and Arbitration Service (ACAS) to try and create frameworks for a more meaningful dialogue and to put in place more sustainable forms of representation. In most cases there were "away days" and attempts to sustain dialogue through social events and the use of pre-meetings and informal dialogue held away from the forums. Several organizations (including the petrochemical companies, the housing trust, the investment bank and the charity) engaged with such forms of training as a vehicle to support and mentor individuals into these new roles. In effect, training allows for the remaking or making of a history of participation which has been absent from such a context or which has been subject to extensive change. Managers also reported examples of different groups coming together in the forums which then 'shaped themselves' and self-regulated each other. This was the case in, for example, one of the petroleum MNCs that had emerged from a previously public sector context with a more regulated background. In this respect, the space of representation is itself a learning space and can contribute to an ongoing

ing dialogue if the support is there. This was apparent in those cases where there was limited or no union presence. In effect, not having anyone to delegate to, or rely on, for generating representation meant that the firm had to step in and generate it themselves, with all the operational and ethical issues this can give rise to.

We have to be mindful of the fact that not interviewing ERs meant that we were constrained in terms of understanding the real panorama of conflict and difference. While the HR managers involved were generally open and appeared to be sincere in outlining problems; it is not possible to fully verify the findings as industrial conflict is sometimes seen as a sign of weakness or failure in HR administration. In the public sector, interviews referenced strikes, but these were national 'days of action' related to the political context and government-led austerity programs. They illustrated the important impact of national outcomes on local industrial relations for many public organizations (for example the health service trust, central government organization, universities and local authorities). TUs were engaging heavily in minimizing, where possible, the effects of the neo-liberal and austerity policies of the 2010-elected Coalition government. There was a background of political unease due to the restructuring of the state and politicized responses by unions engaged in opposing the social impact of the public spending cuts. However, these issues were deemed (curiously) to be external to the national and local forums and in part—and ironically—did not systematically disrupt local discussions. Relations between management and unions were therefore in broad terms still intact. The 'external' and political nature and origins of the conflict—and the decisions leading to it—allowed management to dissociate itself from the reasons and drivers for austerity measures. It enabled a curious organizational 'solidarity' or 'understanding' with TUs in their forums to ensure that the reductions in jobs and state resources were evenly and 'fairly' distributed (although this remains a matter of interpretation). This was a robust test of the systems of representation within the public sector and their ability to absorb pressure and to create—to an extent—a basis for a longer-term strategic dialogue. It very much undermined the image of the public sector and trade union representatives as being antiquated as in fact they are heavily engaged in a range of discussions and difficult decisions. However, in some instances it was felt that over time and with further cuts to public services this dialogue would possibly deteriorate, and mutual gains for both sides would be hard to find.

In the private sector, conflict was less common. There were differences of opinion on various aspects but the absence—or virtual absence—of conflict meant that employee representation and relations were not seriously tested. The absence of key conflicts was in part due to the absence of unions, the weakness of unions or the presence of unions with a more business or market-facing identity as in the case of the supermarket. Moreover, the forums in such contexts would not necessarily oversee or deal with conflict in general. There was a tendency to engage with sensitive issues of change in some organizations but always according to parameters set by management. Interestingly some organizations, with the housing trust as the most striking example, stressed how they wanted the forum to consider more strategic rather than day-to-day operational issues. This relates back to how agendas are set and how such forums are seen as part of a longer-term dialogue. It does not always

have a decisive effect on difficult topics but such topics were brought into some of the forums and in those cases, where there was a more systematic and strategic approach to restructuring, it became a testing ground for future proposals. These tended to be organizations with a history of regulation and representation such as the petrochemical companies that had emerged from the public sector. Once more, organizational memory was a curious additive in influencing the nature of representation (Martinez-Lucio and Stuart 2007).

Finally, awareness of EU-level social dialogue initiatives was low in most—although not all—cases. Firstly, in the public sector the systems of representation were highly advanced and similar to some extent to the Works Council models of many European countries in terms of social dialogue and relations. Second, in the companies with a weaker union presence, where they had been using information and consultation forums for some time, these were fine-tuned and developed only partially in the light of the EU information and consultation of employees (ICE) initiatives. In the UK, these initiatives have therefore tended to be linked into existing union and non-union models. There may have been some input in terms of the early initiatives but the EU dimension is not integral in any explicit manner nor very visible. The research confirmed that the processes of dialogue have been adjusted nationally and locally to fit the organizations in various ways. At national level there has been no major development in the process of dialogue except that national structures of representation and discussion among public sector employers and unions took some pressure off the local level in terms of dealing with the implementation of decisions.

It is clear that the European Works Council (EWC) Directive has been adhered to in the main by the UK. The MNCs in our research had a EWC. Yet there appears to be a clear divide—or gap—between national and European level arrangements in such firms. It appears that there is little influence in the sense that those UK representatives on the EWC tend not to introduce EWC practices or routines within UK forums or councils. In some cases there is some spill-over effect and an interesting aspect was put forward by the two interviewees at one of the petrochemical MNCs. They both discussed how participation in the EWC shapes the attitudes of UK forum representatives as they see much more consultation in Europe. However, opinions differed on the impact. One interviewee stressed a positive influence while the other pointed out how a cultural clash in approaches to the EWC meetings illustrates and even leads to a strengthening of a different attitude in the UK. The national representatives who were also on the EWC experienced more ‘aggressive’ behavior from representatives from countries like Germany and France and tended to disengage from it. Something similar was noticeable in the investment bank where the interviewee also stressed this different attitude between British and some other European worker representatives. So there was a realization that the forums in the UK were—when linked less to a union approach and system of representation—different in nature to the perception of a European approach. Yet such a ‘more assertive’ approach would tally with the public sector. In effect, the distance from the EU is apparent in the newly-emerging management or company-driven systems of representation and

participation that are more business orientated, and where independent representation is not clearly developed.

12.4 The Survey

As already mentioned, response to the accompanying UK survey was very low and for this reason we consider the findings highly tentative. The survey was not based on systematic sampling but distributed through “snowballing” after the link to the interview was initially sent to the range of identified HR managers approached for the interviews. They were subsequently asked to send the survey link to other HR managers in a range of organizations that they might be familiar with. The UK team also sent out an email on two occasions to a database of over 100 UK-based HR managers who formed part of the Manchester Business School alumni body. This was followed up with individual emails to over 1100 UK-based HR managers included in a database acquired by the University of Manchester from a specialist research company. A fourth initiative came from a former student of the Manchester Business School who used the social media organization LinkedIn to send out the request to participate in the survey to a group of 1200 employment relations specialists. In spite of the large set of individuals contacted, the number of responses remained low, possibly suggesting a problem with the sensitivity of the topic in the UK. The UK case study authors believe that the low response is due to questions in the survey which asked the manager to assess the abilities of representatives with whom they could have a personal link or working relationship. The nature of the participation system in the UK is also, to a large extent, more complex and with a lower level of representation and participation compared to most other EU countries. There is also less collective representation, with more firms without ERs compared to the situation in other parts of Europe. The absence of clearly established institutional structures for social dialogue may have an important impact on the visibility and awareness of issue of representation. We felt that the low response may reflect the fact that such practices are less ingrained within the UK system and characterized by lower levels of engagement with representatives. Our cases were distinct as we selected them because of the presence of some type of participation forum within their organizational context. This may explain why the qualitative data is at odds with the survey findings (Fig. 12.1).

When it comes to the survey outcomes, there are some findings in comparison to the European average albeit that their interpretation seems to require some conjecture. The figure—with significant differences circled—shows how *trust in industrial relations* is higher in the UK than in Europe ($M=3.62$ vs. $M=3.31$). The relatively high level of trust appears to fit the interview findings although its interpretation is not straightforward as it appears counter-intuitive and there may be no single explanation across all cases. In unionized organizations, it may relate to the established character of the structures for collective representation. In non-

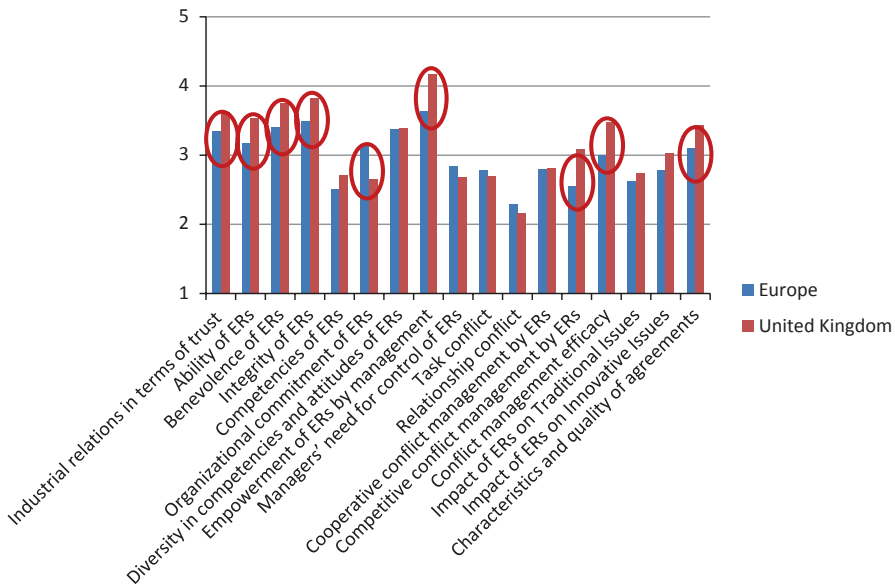


Fig. 12.1 Mean scores of main variables for UK and European HR managers

union organizations, it may simply refer to the ‘absence’ of conflictual industrial relations through collective bargaining or to the more limited remit of the forums and the greater tendency of UK workers to adopt (or be forced to adopt) a ‘business-friendly’ perspective, as described by some interviewees. This may also be captured by the higher score on *competitive conflict management* ($M=3.09$ vs. $M=2.59$) and *conflict management efficacy* ($M=3.48$ vs. $M=2.98$). The support for employee representatives by the responding managers (*empowerment of employment representatives by management*) is also substantially higher ($M=4.18$ vs. $M=3.61$). Finally, the UK respondents were rather positive about the *ability* ($M=3.54$ vs. $M=3.14$), *benevolence* ($M=3.75$ vs. $M=3.35$) and *integrity* ($M=3.83$ vs. $M=3.47$) of ERs. However, these positive impressions are somewhat countered by the low score on *organizational commitment* ($M=2.66$ vs. $M=3.16$). As mentioned, we have to be careful when interpreting this data, also because of the low number of responses. Two factors may be of particular importance. First of all, these findings may be explained by the smaller remit of social dialogue in many UK organizations compared to those in continental Europe. This can imply less room for conflict, greater ‘empowerment’ by management, and lower requirements on the capabilities of the participants. Secondly, we have to remember that the findings may have been colored by the fact that many UK organizations have no recognized ERs and that the positive outcomes reflect the fact that respondents have compared the situation in their firms to this wider UK environment with limited representation. As such the findings are not necessarily representative but may need to be interpreted in com-

parison to other UK rather than to other European firms. This suggests the need for further research and extreme care when interpreting the survey outcomes.

12.5 HR Managers' Suggestions for Improving Social Dialogue

There were various suggestions for improvements from the point of view of those managers driving or overseeing the systems of participation. While in the main they seemed to have positive experiences with the systems of participation, there were concerns with some aspects of their development. Particularly in the case of employee forums, these concerns tended to focus on the lack of formality in some of the structures and the problem of agenda setting, including the ability of members to represent the concerns of workers.

The costs of a more flexible approach to participation—especially in the private sector—were related to ongoing issues of sustainability. In the case of the housing trust the HR manager was concerned with the lack of formality and procedure. It was also common for interviewees to express concern about the lack of ability and capability of representatives, and the need for a more elaborate remit for the representative council. This was the case for the charity and the housing trust. The general concern was that there needed to be a more systematic set of structures and support. The authors see this as a reflection of the informal and flexible nature of such systems. There was a strong voluntary aspect which while having some virtues could not always guarantee a systematic and meaningful culture of participation in the longer term. In the case of the charity the need for role models was indicative of the fact that there seemed to be no clear benchmarks or reference points in terms of participation and participants. Participation was forged in relative isolation.

The need to develop less personal/individual agendas and a better way for representatives to feed back to the employees were also raised. This may be a reflection of the lack of history and clarity in the processes of those more 'flexible' forms of representation. That representatives should not speak to a personal agenda but represent the concerns of the wider workforce was a common concern. This issue of informality and the lack of 'seriousness' was reflected in various instances, in terms of time management problems and the absence of organizational support. The more voluntary and flexible approaches to participation did not work within clear and stable boundaries in terms of agenda setting, the development of representatives or general support for them. This is partly due to the absence of any legal or external guidelines and expectations of what support representatives should have. Hence the advantages of flexibility in representation as perceived by managers were countered by serious issues of capability in the representatives. The authors would argue that there may be a link between these two factors.

Even in larger private sector organizations there were concerns as to the quality or even absence of representatives further down operational structures. Incentives for engaging with participation and becoming a representative were not always ap-

parent. There were references to the failure to explain the purpose of participation in cases where TUs were weaker or non-existent. The absence of a greater organizational effort in presenting the purpose and value of participation was lamented. In one high profile MNC the meetings of the forum would be held in different sites as a way of raising the profile of the forum within the firm, while also bonding the representatives together within the different activities and cultures of the firm. This was an unusual strategy for embedding the forum within the realities of the firm. In other cases there were attempts at creating informal relations and dialogues through ‘away days’ and joint training sessions as a way of promoting a more productive and trusting dialogue. In some cases, this was also a recognition of the need to extend the remit and purpose of participation.

Various interviewees in the public and private sector were concerned about the failure of middle and line management to engage with a participative approach. Some felt that more could be done to develop a greater management awareness of the work of the forums. While training was provided for representatives there was concern about the need for a greater investment in management and worker development in relation to the role and purpose of participation. The city council and one of the MNCs raised this as a major challenge. This could be one of the reasons why few workers came forward as representatives. The training discussed in the interviews was for members of the specific councils but there was a real challenge—or lack of interest—in raising awareness about the role of forums in some cases. Previous findings (Munduate et al. 2012) also highlighted that new worker representative roles were increasingly stressful due to competing demands in terms of communication, representation, changing workplace politics (e.g. equality), and the pressures of time at work. This confirms how investment in participation is a major issue.

12.6 Discussion and Analysis

The UK appears to exhibit different characteristics compared to Europe when we discuss questions of participation, with the more ‘flexible’ and company-led approaches very apparent. An interesting finding is that regardless of their variety such structures can on occasion shape decisions. All interviewees recognized such an influence. Yet at the same time, it is clear that the remit of the councils is often limited (which was particularly explicit in some of the MNCs) with many key issues not on the agenda (e.g. pay and bonuses). While it is clear that many forum or council structures perform reasonably well, management plays a major role in setting or shaping the agenda, and sometimes even the membership, especially with regards to the link with TUs and whether individuals can stand for election as trade unionists or as individuals.

The findings also show a clear and sharp divide between the traditionally unionized and public sector cases on the one hand, and the private sector cases on the other. In theory the depth, extent of dialogue and level of employee representative experience is much greater in the former. The nature of dialogue is broader even though

the current political context is presenting a series of challenges. In the private sector, it appeared that the employee relations managers had a more steering and leading role. Even when the firms were unionized there appeared to be a clearer steering of the processes of dialogue and there were less risks taken by opening extensive strategic discussions with employee representatives. However, the commitment to collective representation in general appeared to be significant among HR managers. Many had wide experience of dealing with unions and representation. The attitudes were deemed to be positive, but we only have an HRM perspective so cannot verify this. However, the level of competence and understanding of the HR managers on such issues was notable.

The forums played many roles in terms of dealing with some key issues and in creating a climate or appearance of dialogue. They were important in legitimizing management decision making. To some extent this dominant position of management is countered by the need for the forums to appear to be successful. The 'better' organizations also stressed how the forums or councils were an essential instrument in improving communication and engagement. The forums were developed to enhance operational HRM activities through general discussion or through the promotion of sub-groups that dealt with problem-solving or developing specific features of HR practice such as discipline and grievance mechanisms. Some organizations (e.g. the housing trust) appeared highly sincere in their attempts to extend the remit of the forum to include more strategic issues. One of the Petrochemical MNCs also stressed how participation through the employee forum played an essential role in its overall HRM and contributed to a culture of employee engagement. However, these ambitions also confirm how the initiative, in defining the scope of participation, lies principally with management.

The main risks to the system rest in its fragmented nature. There is no clear pattern of representation as it varies by sector and organization, and even within them. In addition, the forums examined, while in the main established and functioning well, did not always have a clearly independent role in the private sector cases. There are also potential problems with the question of time. In the private sector the time available for such work was variable and not always adequate, while in the public sector time-off for industrial relations work is being questioned by the government and creating political unease. All these aspects illustrate how the virtues of 'flexible representation' are challenged by the difficulty of sustaining a coherent approach across time.

We must also keep in mind that these cases were open to interviews on what is normally a very sensitive topic in the UK and we are therefore unlikely to have captured many of the weaker cases and problems associated with a fragmented system of representation and participation. These organizations were open and willing to engage in a discussion with researchers and thus are likely to reflect the relatively more advanced side of participation. Many firms are not like this. The evidence on the whole is positive about the role of ERs but uncertain about the extent of the effectiveness of the UK's system of employee representation in non-union or non-collective systems. The ability of representatives from a non-trade union background to engage in a systematic and professional manner was a concern, and in those cases beyond the public sector it required extensive investment in training.

What did strike us, regardless of the diversity and tensions in terms of participation, was that the managers in those cases where there were no unions or weaker unions, having engaged with the question of participation, still needed to ensure that the legitimacy of participation was developed. Even if agendas and individuals were not as independent as one would have liked, the presence of forums and representatives brought forward a need for pre-meetings, processes of feedback, elections to guarantee representativeness and continuity, clear agenda setting, the development of core individual representatives and regular and even innovative meetings. In effect, management had to be seen to enact such vignettes of participation and the perceived culture of it. If anything this approach has to be a specific focus of attention in those cases where organizations have decided not to develop or allow independent TU-based participation. In these cases they have to ensure that the memory or practice of collective mechanisms is recreated so as to justify the remit of the forums. This raises the question as to whether it would be easier to provide more space for independent representation and minimize the costs and bureaucratic controls within the management-led cases.

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Chapter 13

The Tower of Power: Building Innovative Organizations Through Social Dialogue

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This book explores managers' perceptions about ERs and the industrial relations at national, sectorial and organizational level in 11 European countries. After showing and discussing the results in each country, this chapter offers a general picture of the outcomes at European level. Here we present a summary of good practices for achieving cooperative, innovative and constructive industrial relations, based on the factors included in the NEIRE model. These suggestions, offered by the HR managers from the different countries participating in this study, illustrate the wishes of one side of the table and bring us one step further to better understand the current European industrial relations system and their expectations, concerns, and objectives.

Because of the crisis, we have to lay people off. This doesn't make the WC or the unions happy, so that makes the current situation difficult. However, we are able to keep a good relationship with them by ensuring that these measures are implemented in a fair way (Personnel manager, international bank)

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M. Euwema et al. (eds.), *Promoting Social Dialogue in European Organizations*,
Industrial Relations & Conflict Management 1, DOI 10.1007/978-3-319-08605-7_13

We're both (employers and ERs) aware that we represent different interests. That is clear. But we are also aware that we sit in the same boat and that we have to row together so that the boat does not sink. (...) We have different interests, but we also have similar ones and this is what brings us together: we both fight for a common optimum solution where we all feel taken care of/represented' (HR Manager, chemical industry)

[...] I know that a good WC, a WC that is critical, is able to offer constructive suggestions to find not only a solution but a better solution because they are in a position to consider views that I am not able to take into consideration due to my position as an HR manager. For example, what factors motivate or demotivate the employees. And for this reason I support this constructive process of decision making, even when it costs a lot of time and can involve stress, because I know that through this process of compromise we will reach the best solution (HR manager, consumer company)

These testimonies illustrate some of the most optimistic and positive views among the interviewed HR managers in the European participating countries. Collaborative attitudes and behaviors, being able to listen to the other side of the table and integrate feedback to improve their future ways of solving conflicts are keys to success in many organizations (Lewicki et al. 2007). However, there is also a more pessimistic side of the coin, where a more competitive culture is shown by both parties and therefore more pessimistic analyses of the social dialogue and conflict management. In both cases, we observed among employers the will to work together on improving this sometimes scratched relation through the improvement of trust, competences, and conflict management styles in order to survive the harsh crisis we are immersed in.

The relationship between ERs and managers has never been easy (Hyman 2005; Martínez-Lucio and Stuart 2005; Walton and McKersie 1994). To a large extent, they represent two sides of the negotiation table. And the issues at the table have been traditionally often conflicting (Walton and McKersie 1994). There are many issues also of shared interest, particularly concerning innovative issues as health and safety, gender equality, and vocational training (Pulignano et al. 2012). Nevertheless, the strategies of the managerial board attempting to maintain a competitive business model are frequently conflicting the improvement of the workers conditions, particularly in the case of downsizing (Munduate et al. 2012). To overcome these difficulties, the exchange in social dialogue has to become innovative and cooperative (European Commission 2012). The quotes above also illustrate the potential of cooperation between management and ERs. In contexts where conflicts are unavoidable and even necessary, there is also a need to increase the trust between parties, allowing the exchange of information that leads to agreements that can satisfy all parties involved. Of course, this ideal scenario has not yet been achieved in many cases. As we have seen throughout this book, Europe is not homogeneous in regard to industrial relations, and neither are sectors, nor organizations. Managers in some countries—such as Denmark or Germany—express more evidence of cooperative partnerships, while in other countries—such as Portugal or Spain, the results point out to more competitive and distrusting relationships. We offer below a cross-cultural overview, in order to discuss the results and analyze differences and commonalities in the different European countries.

13.1 Perceptions of European HR Managers About ERs: A Cross-Cultural View

Over the chapters we have seen the diversity around Europe in terms of HR managers' perceptions of the ER's role, the relationship between the parties, and the approach to social dialogue. Here we elaborate on the most salient trends. These results allow us to draw conclusions from Europe as a whole and focus on the diversity of the system as well as in the common issues, practices and suggestions described by the HR managers.

Table 13.1 shows the significant differences between each country and the European mean. Green squares indicate positive results on factors contributing to constructive social dialogue (for example high ability). Red squares point out negative results on factors contributing to constructive social dialogue (for example low level of competences of ERs). White squares indicate no significant difference to

Table 13.1 Significant differences between each country and the European mean.

[illegible]

Europe. This table should be interpreted with caution since there are also different perceptions at the organizational level, as it has been shown in the previous chapters. Hence, knowing that we can't generalize the results, this table offers a clear perspective about the main trends in each country and the differences across Europe.

Table 13.1 clearly shows the diversity in industrial relations climates in Europe. We make some additional observations for each country.

Belgium is on many aspects comparable to the mean European score, however otherwise the opinion of HR managers is less positive, than average. ERs are seen as been less competent than the European mean. Additionally, a high diversity about ERs is perceived. The empowerment of ERs is seen below the European average and HR managers show a higher need for control of ERs. They perceive more relational conflict. They furthermore perceive ERs as relatively competitive when it comes to conflict management.

In *Denmark*, in contrast with Belgium, ERs are on most aspects perceived more positively, than European average. The relations seem to be characterized by a relatively high trust between management and ERs and low frequency of conflicts, at task and at relational level. Furthermore, when conflicts do arise, ERs are perceived as cooperative, competent and committed.

Estonia shows a similar positive situation, trust between parties, low frequency of conflicts at both levels, higher empowerment and less need for control of managers. ERs are evaluated as more trustworthy, cooperative and competent than the European mean and this seems to be a general pattern, with low diversity among ERs. Please note however, that in Estonia a sharp contrast was observed between large, often multinational companies, and local, small to midsize organizations, in which ERs hardly play a formal role.

France, like Belgium, shows overall a more antagonistic image through the eyes of the HR Managers. We observe higher frequency of relationship conflicts related to an industrial relations climate of low trust between managers and ERs. Managers perceive ERs as less committed to the organization and less competent than the European average.

In *Germany* there appears to be an environment of relative trust and cooperative relationships, where ERs have impact on traditional and innovative decisions related to the codetermination system. Collective agreements inside the organization are also perceived as having higher quality than the European mean; however German managers also seem to have a higher need for control.

Italy doesn't display great differences with Europe, and shows a more positive picture when talking about frequency of relationship conflicts, cooperative conflict management of ERs and efficacy of handling conflicts.

Dutch ERs are described by the HR managers as more cooperative and committed than the European average, with less task conflicts and more impact on innovative issues (i.e. gender equality, environmental protection).

Poland shows lower trust between parties and higher frequency of task and relationship conflicts, as well as a marked low impact of ERs on organizational issues compared to the European average.

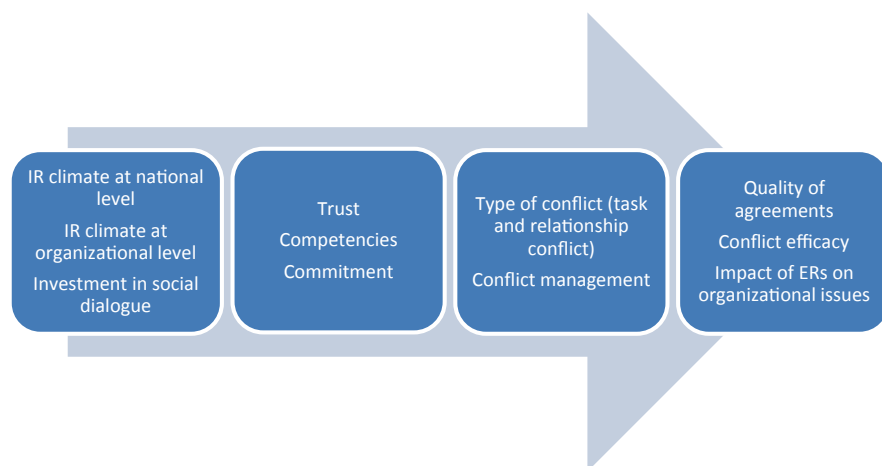


Fig. 13.1 NEIRE model for industrial relations in organizations

Portuguese managers do not perceive ERs as trustworthy, cooperative or committed. This might be one of the explanations why their impact on different organizational issues is lower than the European average.

Spain shows comparable results to *Portugal*, except for the impact of ERs on organizational issues, where the scores are actually higher than in the rest of Europe, due to a large extent to a labor law that protects the ERs participation.

The United Kingdom shows mixed results, since there seems to be a climate of trust and managers perceive that negotiations are effective and result in high quality of agreements; however ERs are also perceived as being competitive in conflicts and not committed enough to the organization, when taking the European average as a point of reference.

This overview shows that factors as the trust perceived in the industrial relations, ERs' empowerment, ERs' commitment to the organization and frequency of conflict as well as the ERs' conflict management style vary significantly depending on the country. Next we focus on the NEIRE model introduced in Chap. 1 and give an overview of the European results taking into account each variable included in the model. Following the NEIRE model (Fig. 13.1) we explore several of the relations between the factors in the model. We highlight here some main findings. We start with the outcomes, asking ourselves what factors contribute to the quality of agreements, and what determines the perceived impact of ERs on organizational issues? We then move to explore further the combinations of relational and task conflicts in each country, and cooperative and competitive conflict management by ERs, in the eyes of HR managers. We relate these to the other factors in our model, such as trust, competences and commitment, as well as the overall IR climate.



Fig. 13.2 Perceived quality of collective agreements in organizations in 11 countries

13.1.1 *Quality of Collective Agreements in Organizations*

With no extreme differences between countries, it seems that at the end of the day agreements are neither excellent nor terrible, as most countries score around 3 on a 1 to 5 scale (Fig. 13.2). Evidently with this level of quality, there's still great room for improvement in all Europe, and this represents also a large variance between organizations in each country.

What determines the quality of agreements? First, and in line with expectations, we see that trusting industrial relations are closely related to the quality of the collective agreements (Dirks and Ferrin 2001; Doney et al. 1998; Kramer 1999; Kramer and Tyler 1996). In contexts characterized by trust between ERs and management, better agreements are reached. Another factor leading to more qualified agreements is the ERs' cooperative conflict management as opposed to competitive conflict management patterns behaviors. Furthermore, ERs' level of competences is also related to quality of collective agreements in organizations. Finally, the conflict efficacy and a constructive approach from both parties toward the conflict resolution, is related to quality outcomes in the agreements (Bacon and Blyton 2007).

13.1.2 *Impact of ERs on Traditional and Innovative Issues*

According to the impact on organizational issues, we differentiate between traditional issues and innovative issues. Traditional issues being 'classic' collective bargaining topics, such as: working hours, pay and incentives systems and performance targets.

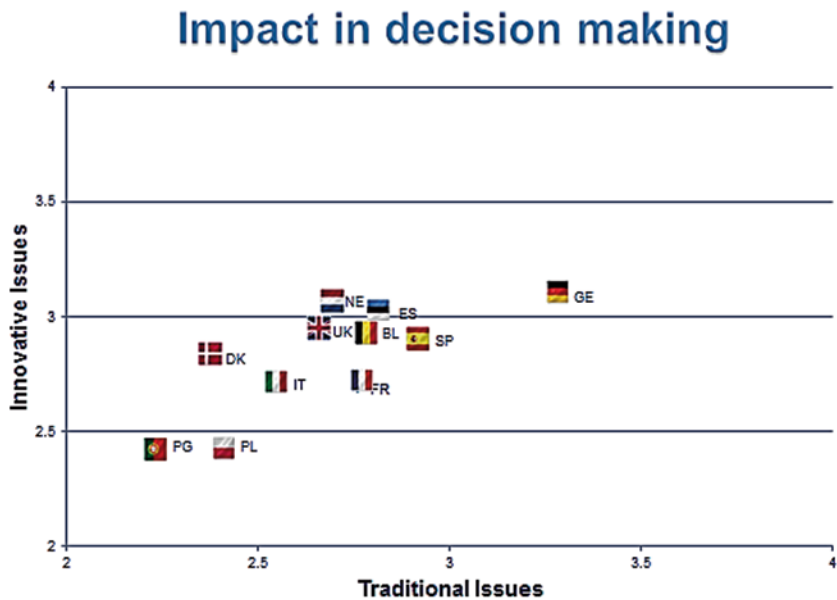


Fig. 13.3 Impact of ERs on innovative and traditional issues in 11 countries. (Original scales are 1 to 5)

Innovative issues: work-live balance, equality, corporate social responsibility and green issues (Cutcher-Gershenfeld and Kochan 2004). The results show a relatively low score (under 3) for both types of impact overall in Europe. However, when examining the scores in each country we see quite significant differences between countries. These are pictured in Fig. 13.3.

The first thing that catches the eye is the position of Germany in the top right corner, indicating that German managers perceive ERs to have relatively strong impact on both types of issues. The strong position of German ERs matches with the co-determination which is present in Germany, and less so in other countries, as discussed in Chap. 6 (Trinczek 2006). On the other hand, Portugal scores low in both (bottom-left corner), meaning ERs here are perceived to have little impact on the decision making processes for traditional and innovative issues. Other countries such as The Netherlands and Denmark score considerably higher in innovative issues than in traditional issues.

Following the NEIRE model, we explore how the impact on the decision making process is related to other factors as perceived competences and the conflict behavior used by the ERs. Less conflict frequency, and especially relational conflict, is related with more impact at the table. Furthermore, conflict management is related to the impact. Competitive conflict management by ERs is related to more impact on traditional issues; while ERs with more cooperative conflict management have more impact on innovative issues. The strongest factor however is perceived competence of ERs. Managers who perceive the ERs as competent, consider ERs’

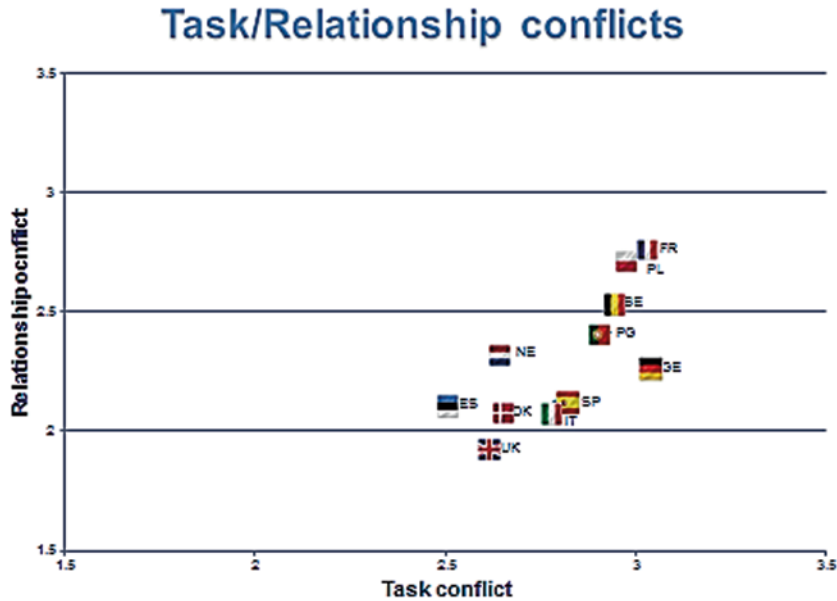


Fig. 13.4 Task and relationship conflict in 11 countries. (Original Likert scales are from 1 to 5)

impact to be higher in the decision making process about traditional as well as innovative issues.

Integrity and Benevolence. These are perceived as relatively high in the European average however are surprisingly not related to the impact of ERs on decision making. So, even though managers in Europe seem to believe that ERs have clear principles and are well intentioned, this doesn't appear to help them to impact more in the decisions.

13.1.3 Frequency of Conflicts Between Management and ERs

Substantial differences appear in the perceived frequency of conflicts between management and ERs (Fig. 13.4). We differentiate relationship and task conflicts, the first being conflicts about values or interpersonal styles, while task conflicts refer to disagreements over distribution of resources, procedures and policies (De Dreu and Weingart 2003). As we can see, all countries score below 3 in relationship conflict and so is the case for most countries when referring to task conflict. France accounts for more conflicts of both types than the European average. Estonian managers perceive “calm” relations with ERs if we focus on the level of relationship conflict. In Belgium, the level of relationship conflict is also low, while the level of task conflict is one of the highest. Traditionally, research has concluded



Fig. 13.5 Cooperative and competitive conflict management in 11 countries. (Original scales are from 1 to 5)

that relationship conflict can damage the organizational climate and the performance. Task conflict can sometimes be productive, however only in a cooperative context (De Wit et al. 2012).

13.1.4 Perceived Conflict Management by ERs

Figure 13.5 presents the HR managers’ perceived conflict management style used by ERs. As mentioned above, ERs tend to combine cooperative and competitive styles (Elgoibar 2013; Euwema and Van Emmerik 2007; Van de Vliert et al. 1995). This combination can include a more cooperative or competitive approach and here we appreciate differences between the countries (Munduate et al. 1999). For example, in Denmark, Germany and Estonia, ERs show a more cooperative pattern (relatively high on cooperation, and relatively low on competition), whereas in Belgium, the UK and Spain, ERs tend towards a more competitive pattern, with competitive behavior more prevalent than cooperative behavior.

What determines cooperative and competitive behavior? Most important, we see that an IR climate of trust is strongly related to cooperative conflict management style, however, surprisingly not related with competitive conflict management by ERs. Two interviewees illustrate the effect that the industrial climate can have on the conflict management style:

In the traditional model of industrial relations there is no trust between the parties... no ethics or transparency... and this is what is in crisis in the management of organizations (CEO, Spain)

We trust each other. It is the precondition of a close cooperation. I have 100% trust in that they work well and are trustworthy, and that we can have talks off the record, where we think out loud together. It is also because I experience that they are modern, meaning that they don't see us as their opponents, but merely as someone who works from a different perspective and have other assignments than them. The main task is the same: We need to have a good, healthy, well-functioning workplace and we all work together so that our customers experience a good bank (HR director, Germany)

13.2 Ten Practical Recommendations and Good Practices

IR climates differ between countries, sectors and organizations. However, quite clear commonalities about desired practices also appear when we listen to HR managers in Europe. Here we summarize their wishes, concerns and some proposals to improve social dialogue. These good practices can be inspiring. HR managers and ERs can see in what ways these practices could be applied in their organization. One might easily say: this does not work in our country, or sector, or organization. If this is your response, please remember that also within countries and sectors, the differences between organizational practices are substantial, when it comes to a climate of trust and cooperation in IR. For this reason, we would like to remind employers that they are greatly responsible for the quality of social dialogue and of the ERs in their organization.

13.2.1 *Promote Innovative Social Dialogue*

Following the NEIRE model, we start by examining the outcomes: effective dealing with conflicts, ERs' impact on decision making in organizations, and innovative collective agreements of high quality. By far most European employers prefer strong counterparts at the table. And they want to make high quality agreements that meet the changing developments in the workforce and economy. Employers value a formal structure for social dialogue to make such agreements, also within the organization. In the next points we explore the elements of the model regarding how to reach such empowered ERs, high quality agreements and minimal escalation of conflicts.

We were able to really make an integrative agreement which is seen as very innovative in the context of our country. We could only do this due to the constructive climate and our joint efforts to cooperate. During this process, we were able to avoid personal conflicts (HR manager, banking sector, Belgium).

13.2.2 Make Simple and Flexible Structures for Social Dialogue

From the practices gathered all around Europe, we see a wide variety at the structuring level. Most large and international organizations are well organized, and sometimes even over-structured. HR managers regularly express the wish for more comprehensive and less ‘heavy’ structures of employee representation. This however is not so for smaller companies, embedded in family and local businesses and organizations. Here, formal representation often is absent. Usually line management acts. In the case of the UK, also larger organizations heavily rely on informal ways of representation, which clearly have their limitations.

Generally, HR managers in Europe do value social dialogue as a form of structured negotiations and problem solving activities, also embedded in legal structures. When it comes to comprehensive models, HR managers prefer fewer parties at the table, representing different groups of employees and from different unions. Secondly, there is a tendency to have stronger ties with the ERs who also work in the company, as compared with shop stewards who are employed by the unions. Related to that, in small organizations where informal dialogue is working, the structure of ERs can be considered as less needed:

Simplifying the structure would be better. For example: if we are 49 we don’t need to have this structure but if we are 51 we need ten members in the workers council! (HR Manager, France).

Good practice: A more flexible representation structure within the organizations is an attractive model for most HR managers. Efficient relationships are built more at an informal level than at a formal level.

13.2.3 Unions Become More Innovative and Less Ideological

Employers in most countries express appreciation for ERs. Nevertheless, there is a sense among employers that unions should be more adaptive to economic developments, also at organizational level. Unions, and from national and sectorial level, also in organizations, could improve the IR climate and their impact on decision making in organizations, if they are less conservative, in the eyes of employers.

The doctoral dissertation of Van der Brempt (2014), demonstrates this clearly. In case of WC members are in majority members of union with an ideology of traditional “class conflict”, ERs are perceived as less impactful, and less cooperative, also by the ERs themselves. More impact is perceived when members are in unions with a stronger focus on cooperation with employers.

ERs are expected to fight for the interests of the employees; however this is not necessarily in conflict with the interests of the organization. This indeed is the perception of most employers, who expect that unions would also take that perspective and that they would consequentially educate ERs in this way. Within Europe, ERs

in Germany are perceived to have a relatively high impact. A German manager illustrates this:

Traditionally industrial relations can be characterized as constructive, a desire to work together, and I think that 99 % of my colleagues and 99 % of the workers would back me up on this (HR manager, Germany)

Good practice: take a constructive and innovative approach towards conflict.

13.2.4 Invest in Social Dialogue

Many employers see the relevance of a structural representation, and invest substantially in realizing this. Paying the part time and full time working hours for representatives, and having staff and facilities at the human resources department engaged in the social dialogue and structural negotiations. Most see this as money well spent, although quite a few feel there could be more efficiency in the formal structures. Investing in social dialogue in diverse ways pays off, particularly when this is framed in a cooperative relation.

The role of the ER is important in our organization; we need them to reach good agreements with our employees and trust that they put their best intentions into doing just that (HR director, education sector, Spain).

Social dialogue has to focus on the ‘weakest group’ in terms of explanations and therefore, a sound didactic approach is required. It is not per se the workers who need such explanations—for instance, if it is about a technical problem in our production, then the employees and managers are in need of clarification. So it depends very much on the topic we talk about (HR manager, industry, Denmark).

Good practice: Promote social dialogue and involve different groups of workers depending on the topic on the bargaining agenda.

13.2.5 Invest in Informal Relations

Within each country we see clear differences between organizations, and between sectors. Even though the financial sector has faced dramatic changes, the IR climate is relatively cooperative, compared with industry. Higher education is also more cooperative compared to the industrial sector, generally speaking. How to promote a cooperative industrial relations climate in the organization? A key factor mentioned by many HR managers is to develop good and task-focused informal relations.

In Belgium, Germany, Denmark and the Netherlands, management widely uses informal communication prior to officially starting to negotiate in order to circumvent the ‘heavy’ structures and come up with possible solutions beforehand.

In informal meetings, ERs are more likely to show understanding for topics that would be very difficult to put on the table in formal meetings.

Our informal relationship is certainly better than the formal one. Therefore, I try to actively engage in these informal relationships with the employee representatives as I am convinced that in the long-run, this will also enhance our formal relationship (HR manager, industry, France).

Good practice: invest in informal relations.

13.2.6 Build Trust

Trust is recognized as key in the relation between management and ERs. Also, clearly trust is regularly lacking, and managers regularly believe that ERs don't trust them. Trust mostly grows slowly and is associated with long tenures of ERs. Generally, employers manifest the need to be transparent and to promote open communication, together with sensitivity towards employees. Managers refer once again to the need for training to be able to communicate more effectively with ERs about different and complex topics related to organizational dynamics and therefore improve trust between the parties. Some companies report that they carry out a team activity for both management and ERs once a year in order to improve the relationship and establish trust.

In order to keep good and trustworthy social relations, we—management and ERs together—go on a trip once a year, e.g. to visit one of our plants abroad. For us, it is important to view ERs not only in their function, but also as human beings with a personal background (HR manager, Belgium).

Generally speaking the relations between management and ERs are very cooperative. We respect each other's position and share open information (HR manager, Denmark).

Good practice: share information and involve ERs in decision making processes.

13.2.7 Develop Competencies of ERs

There is a general opinion among employers on the need to professionalize the ERs role and training on technical competencies. The ideological orientation that shapes the profile of ERs in many European countries, such as Spain, is characterized by class struggle and confrontation with management. In this regard, employers point out that it's important to make the role attractive to competent people, including those who are younger and have a more flexible attitude.

Training ERs is regularly seen as responsibility of unions. However, this is sometimes used as excuse for not investing in training by organizations. In the interviews we have seen good practices where employers work together with unions, under the umbrella of unions, respecting their independent role. Additionally, some also invest in organization provided or facilitated training for works councils.

In our company we invest in the training of our ERs, we believe that we achieve more innovative and higher quality agreements if we negotiate with competent ERs (HR manager, Belgium).

The company should provide ERs with training as soon as they got elected (HR manager, France).

Training in subjects like business management, finance and negotiation skills can give ERs more tools to work with and make them more flexible (HR manager, Spain).

Good practice: Increase and improve the training for ERs, especially in subjects such as business management and economy and training to improve their communication and negotiation skills. Apart from upgrading their competencies, a more open attitude when negotiating could result from this specialized training.

13.2.8 Increase Attractiveness of the Role of ER

Many HR directors express concern about the recruitment of competent and motivated ERs. They are searching for ways to promote competent, young employees to engage as ERs. However, they observe that TU do not have highly potential leaders to substitute the 'old boys'. Interesting options of good practices are mentioned in the interviews such as:

- Train people with potential to play the role of ERs in leadership strategies
- Reward the role of ER, as part of career management (you cannot become manager unless you have served in some form of representation)
- Promote adequate remuneration, especially in large organizations
- Don't necessarily limit the wages at the level of entry, when ERs start
- Involve ERs for shorter periods or specific project assignments, instead of long year commitment

13.2.9 Contribute to Willingness to Change

In terms of attitudes, the HR management particularly desires a higher degree of openness towards change. A number of HR managers describe attitudes as rigid. This is perceived as a problem, especially due to the fact that most of the investigated companies are situated in a highly dynamic environment with constant changes, e.g. in terms of competition. In the view of the HR management, the continuous need to adapt to the external environment can hardly be aligned with the current attitudes of ERs. However, management generally does not want to take responsibility in this regard, e.g. by offering trainings.

In addition, management can contribute to willingness to change by involving ERs early in the process, informing them well, and empowering them.

Training and education for ERs is provided by the university. We also take time to regularly clarify difficult files in order to empower them to take decisions. However, this is a tricky issue. It requires a trustworthy climate, otherwise it is perceived as manipulation (HR manager, educational sector, the Netherlands).

Good practice: providing training and high education.

13.2.10 Promote Constructive Conflict Management

Promoting a constructive management of conflicts is seen as a need by many HR managers. Employers can contribute to that. For example, several of the investigated companies use working groups consisting of employer and ERs to overcome potential conflicts prior to negotiations. Moreover, members of the working groups are mostly selected based on expertise, which means that everyone on the table should in principle have sound knowledge about the topic. This arguably facilitates discussions and probably, leads to good outcomes. Interview results show that adding employees with expertise to workgroups is a good practice to achieve more constructive and innovative social dialogue.

The ERs should have the function of a co-manager, together with management it should be concerned with finding the best solution for the company and therefore WC members need to be orally competent, they need to understand financially how the company works. They need to possess all the competencies required of a co-manager so that they are on the same level as the top management (HR manager, Denmark).

Several HR managers refer explicitly to ‘national action days’, which are seen as a burden, since the workforce normally, participates although there is not necessarily a link to the organization. HR managers would like to see more innovative and creative solutions in this respect. An HR manager reports:

Taking part in national action days means high costs for us, although the strike is mostly not related to the company at all. This should be evitable and we proved twice that it can work. However, we had to engage in concession bargaining and that is unhealthy (HR manager, Belgium).

Good practice: train ERs as well as HR managers in principled negotiation, so that both parties focus on exploring the interests instead of staying in the positions. In that, trust and competences are essential at the negotiation table. One hand, trust facilitates information sharing; on the other hand, competences make it possible for ERs to understand the task and the decision to be made.

13.3 Conclusions

There’s no doubt that European employers recognize the need of constructive social dialogue. They are generally aware of the importance of the role played by ERs and they express the need and wish to work with strong and competent social part-

ners. The negative side of the story is that, managers of many of the participating countries believed that ERs lack key competences, such as financial expertise and organizational change. Also, the impact of ERs in the decision making processes of European organizations is seen as rather poor. Furthermore, numerous managers from different countries expressed that ERs represent less and less of the workforce as a whole, rather being more interested in representing individuals separately and especially backing up the interests of the TU they are part of. Related to this, it was common that managers would express more problems with external unions than with the actual WC and ERs within the organization. Nevertheless, ERs are regarded as quite cooperative when looking at the big European picture.

It should be noted that there are major differences between countries according to the results. We can see more positive results in terms of social dialogue in the Nordic countries (i.e. Denmark, the Netherlands and Germany) and in general those countries that are not so affected by the crisis. In contrast, the countries in the south show competitive relationship patterns (i.e. Spain, Portugal, France and Italy). However, clear commonalities can be observed if we focus on the good practices suggested by HR managers.

Altogether, employers prefer to negotiate with their own employees, meaning they would appreciate further decentralization. As pointed out before, they want ERs to have an important role in the decision making processes and they would like them to have more impact over the issues discussed inside the organization. Notwithstanding, this would require ERs to show a proactive attitude and offering innovative and interesting proposals. This also requires skilled and informed ERs. Employers express a desire to work with open ERs who think in a strategic way. Additionally, managers state that another requirement would be for ERs to show stronger cohesion among different TU members. Conflicts between ERs and the TU also do not help towards the impact of ERs on organizational issues, according to managers.

Employers in Europe also share the belief that trust is essential for creating constructive social dialogue, yet the overall situation points out to a lack of trust between social partners in a great number of contexts. Frequently managers pointed out that the complex structure of ERs does not help in this sense and they believe a more simple structure would facilitate cooperative relations.

The recipe for innovative social dialogue consists of:

- Investment in competent ERs by organizations
- Ongoing trusting relations
- Empowerment of ERs to achieve power equality
- Cooperative and creative conflict management

Good practices

- Management's attitude: Will to cooperate and reach WIN-WIN agreements
- Open communication: "Informing well in time helps unions to agree with managements' decisions"
- Introduce experiments with dual career for ER

- Introduce new forms of composition of WC
- Actively participate in ERs and HR managers training/education
- Actively engage in teambuilding for WC and between managers and WC

To conclude, this book offers a deep exploration about HR managers' perceptions on the role of ERs. We have seen that different perceptions exist related to the IR climate in each country, sector and organization. This climate impacts the perceived level of competences of ERs, trust between parties and perceived commitment to the organizations. All these factors are shown to impact the way that ERs manage conflict as well as on the type of conflict that they have to face, resulting in either poorer or better quality of agreements and impact of ERs.

The proposals from HR managers in each country are listed in order to improve social dialogue practices, leading towards more and more efficient participation by ERs in the decision making processes of organizations, as well as towards a higher quality of the agreements signed. Quality and innovativeness of workplace agreements become vital under the increasing pressure from globalization and on-going financial crisis. Promoting mutual empowerment between employers and ERs to build a Tower of Power, in which the decisions taken satisfy all parties, is essential to face the current challenges. Therefore, improving the quality of social dialogue is perceived as the healthiest and fairest way to make decisions in a democratic organizational context.

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Abbreviation List

ACAS:	Advisory, conciliation and arbitration service.
ALMP:	Active labor market policy.
BE:	Belgium.
BRIC (Countries):	Grouping acronym that refers to the countries of Brazil, Russia, India and China.
CBOS:	Centrum Badania Opinii Społecznej (Center for public opinion research in Poland).
CCNL:	Contratto collettivo nazionale di lavoro (Collective national labour contract).
CCOO:	Comisiones obreras (Workers' commission in Spain).
CD:	Christian democrats.
CEO:	Chief executive officer.
CES:	Consejo económico social (Economic and Social Council in Spain).
CFTC:	Confédération Française des travailleurs Chrétiens (Confederation of Christian workers in France).
CISL:	Confederazione Italiana sindacati dei lavoratori (Confederation of workers' trade unions in Italy).
CFDT:	Confédération Française démocratique du travail (Democratic confederation of labour in France).
CGC:	Confédération générale des cadres (General confederation of executives in France).
CGIL:	Italian general confederation of Workers.
CGT:	Confédération générale du travail (General confederation of labour in France).
CGTP:	Confederação Geral dos Trabalhadores Portugueses (General Confederation of the Portuguese Workers, Portugal)
CLA:	Collective labor agreement.
CNV:	Christelijk Nationaal Vakverbond (Christian trade union federation in the Netherlands).
CPMCL:	Centro Promotor do Melhoramento da Classe Laboriosa (Center in Portugal for the promotion of the labor class conditions).

CRZZ:	Centralna Rada Związków Zawodowych (Central council of trade unions in Poland).
CSR:	Corporate social responsibility.
DE:	Deutschland.
DK:	Denmark.
EC:	European Commission.
EE:	Estonia.
EGR:	Elemento di garanzia retributive (wage guarantee element).
ER:	Employee representative.
ESM:	European stability mechanism.
ES:	España.
ETUI:	European trade unions' institute.
EU:	European Union.
EWC:	European works councils.
FARCB:	Framework agreement for the reform of the collective bargaining system.
FIOM:	Italian metal workers' federation.
FR:	France.
FTE:	Full time employee.
FZZ:	Forum związków zawodowych (Trade unions' forum in Poland).
GDP:	Gross domestic product.
HRM:	Human resources management.
HR:	Human resources.
ICE:	Information and consultation of employees.
ILO:	International labour organization.
IPA:	Inter-professional agreement.
IR:	Industrial relations.
IT:	Italy.
MD:	Modell Deutschland.
MNCs:	Multinational companies.
NEIRE:	New European industrial relations in Europe.
NL:	Netherlands.
NSZZ:	Niezależny Samorządny Związek Zawodowy 'Solidarność' (Independent self-governing trade union "Solidarity" in Poland).
OECD:	Organization for economic co-operation and development.
OHS:	Occupational health and safety.
OPZZ:	Ogólnopolskie Porozumienie Związków Zawodowych (All-Poland alliance of trade unions).
PCI:	Italian communist party.
PL:	Poland.
PSI:	Italian socialist party.
PT:	Portugal.
PZPR:	Polska Zjednoczona Partia Robotnicza (Polish united workers' party).
RSA:	Rapprese sindacale aziendale (Coagulated company union, in Italy).
RSU:	Rappresentanza sindacale unitaria (Representation of trade union unity in Italy).

SD:	Social dialogue.
SER:	Sociaal-Economische Raad (Social and economic council, Netherlands)
SMEs:	Small and mid-sized companies.
TU:	Trade union.
UGT:	Union general de trabajadores (General workers' union, in Spain).
UGT:	União Geral de Trabalhadores (General workers' union in Portugal)
UIL:	Unione Italiana del Lavoro (Italian labour union).
UK:	United Kingdom.
WCA:	Works constitution act (Germany, 1952).
WC:	Works council.
WOR:	Wet op de Ondernemingsraden(Law on the works council).
WR:	Worker representative
ZWP:	Związek Wzajemnej Pomocy (Polish association of mutual aid).