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*Reiner Hoffmann
Otto Jacobi
Berndt Keller
Manfred Weiss (eds.)*

European Integration as a Social Experiment in a Globalized World

edition der
Hans **Böckler**
Stiftung 

Fakten für eine faire Arbeitswelt.

Reiner Hoffmann / Otto Jacobi
Berndt Keller / Manfred Weiss (eds.)

European Integration **as a Social Experiment** **in a Globalized World**

edition der Hans-Böckler-Stiftung 98

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The Hans Böckler Foundation and the European Trades Union Institute have many years of joint activities on which to look back, and we intend to continue our proven co-operation in the future. One field of shared work is the encouragement of academic projects to help to improve our understanding of European integration. The European Trades Union Institute and the Hans Böckler Foundation are co-publishers of the journal *South East Europe Review* (SEER), and the publication you have before you is also a product of our partnership.

A draft treaty on a European constitution has recently been presented. Even though it contains no binding agreement on state social systems, which is a disappointment from the trade union perspective, the draft symbolises the unbroken dynamism of European integration and the fascination that radiates out from it. European integration is aimed at concentrating its own strengths by means of political and economic co-operation. It is hoped that European integration, with the Charter of Human Rights and its aim to create social cohesion and prevent any recurrence of war in Europe, will make its contribution to a more peaceful world with prosperity and social solidarity.

The European Union (EU) of today is the result of a 50-year process of confidence building between countries that used to be enemies. Although it has had setbacks and periods of marking time, European integration has, on the whole, been a success story.

The EU has always been so attractive that more and more European countries have joined or intend to do so. Outside Europe, the EU has long been seen as a global economic power and, it may be hoped, a political force that is increasingly becoming more active world wide and speaking with a single voice on foreign policy. Both these aspects have given the inspiration for this anthology.

Part A contains three articles giving a general view. These will be of interest to those readers who wish to learn more about the process of European unification.

Part B consists of articles dealing with the question whether the EU's integration potential will suffice to bind the new member states from Central Eastern Europe into the Union, or whether the reverse may happen and the eastward enlargement turn out to be a Trojan horse. The arguments about the European Social Model as a driving force or a threat are central to the discussion.

The final section presents views from the outside looking in. We were interested to learn how academic observers assess the EU, and whether the European way of cross-border partnership might be a reference model for other regions of the world.

During the preparation of this book, we came across an interesting phenomenon. We noted that our question received a great deal of attention, especially in the context of NAFTA (North America Free Trade Agreement) and FTAA (Free Trade Agreement of the Americas), which developed as an alternative to the European model. At the same time, we found that many observers outside Europe do not yet feel able to give a firmly-based assessment. This spurs us to give even greater priority to this question in the future, and so we present this book as a first interim result. The answers vary, but variety is the spice of life.

Düsseldorf and Brussels, 25th July 2003

– Nikolaus Simon –

– Reiner Hoffmann –

EUROPEAN ECONOMIC INTEGRATION AND THE ROLE OF THE TRADE UNIONS

1. THE TRANSNATIONAL DESIGN OF THE EUROPEAN UNION

The EU is increasingly taking on the characteristics of a transnational state. At present the EU is composed of 15 member states and will move far into Eastern Europe with the planned accession of 10 new countries in 2004. It will then represent 450 million people and generate 30% of the world product.

Transnationality is the very specific feature of the EU. Thus, it differs from all other attempts to establish cross-border trading blocs and world regional areas, such as NAFTA. The main aspects of the transnational character of the EU can be detailed as follows:

- **Constitution:** It is expected that the already negotiated Constitution Treaty will be signed by the governments of both the established and the acceding member states by 2003, then ratified by the member states and enacted until 2007. This constitution will grant the union citizens civil and human rights as well as fundamental social rights which will go much further than the social conventions of the ILO (see Weiss in this volume). In addition to this, the constitution enlarges the EU's political authority especially in the areas of internal and external security.
- **Economic and Monetary Union:** National borders play only a negligible role in the common economic and monetary sphere, i.e. the Single European Market (SEM) and the European Monetary Union (EMU). Tariffs as well as non-tariff barriers have been eliminated and national protectionism is regarded incompatible with the EU competition law. The four freedoms of the SEM, i.e. open product and service markets, unrestrained transfer of capital, freedom of establishment, and free mobility of labour, have created a transnational market. Linking a single currency to the common market was a logic consequence. The introduction of the Euro and the foundation of the independent European Central Bank (ECB) in Frankfurt, endowed with autonomous decision-making powers

on monetary policy, have eliminated the national sovereignty over currency and money policy.

- **Political Union:** The more the SEM and the EMU were stabilised the more an enlarged political integration became fundamental. To give an example: The abolition of guarded national barriers leads to the necessity to fight international crime through cross-border cooperation of police and shift the surveillance of immigration from non-EU countries to the external borders of the union. The concept of a unitary judicial and security sphere arose from such new situations. Another consequence is the need to represent the common European interests in the creation of a world trade order and world currency system. On behalf of the member states the EU is progressively receiving more power to negotiate and to settle agreements on a global scale. The chasm between the EU's intention to be a global political player and its deficient potential for military intervention stems from sovereignty of the single nations over military matters. This weakness combined with the recent American "lessons" led to the insight that also the security and foreign policy have to be Europeanised if a higher political status is wanted to be reached. The political union has always been a step behind the economic integration but a change in direction is becoming visible.
- **Law-making and Political Bodies:** The EU devised transnational bodies with far reaching executive and legislative powers. (a) The European Commission is the executive branch, in charge of supervision, surveillance, and implementation of the member states' obligations, resulting from the EU Treaty and secondary EU law such as the directives. The Commission has a relatively small apparatus of about 30,000 civil servants at its disposal which is supplemented by tens of thousands of national employees, thus, creating a subsidiary chain of administration. (b) The European Council comprises the heads of states and governments of the member countries and has political-strategic authority. The ministers of the various councils have executive and legislative powers. Decisions of the Council are increasingly made by majority vote, in some cases a unanimous vote is still needed; the veto right of the member states has been substantially restrained. (c) The European Parliament is directly elected by the population and has overcome its previous observatory and consulting status, becoming the second most powerful organ of the legislative. The co-decision mechanism, requiring the consent of the Council and the Parliament, has become a standard procedure. (d) The European Court of Justice is the highest judicial body of the EU. It has binding jurisdiction over default of EU treaties, EU regulations, and in the case of interpretation disputes.

The jurisdiction of the European Court of Justice includes EU bodies, EU member states as well as citizens and companies. European law overrules national law.

The EU is already in an advanced state of creating a transnational political and economic sphere. Nevertheless, it is by no means a fully developed transnational state. A tendency towards a multi-faceted system becomes visible, characterized by a subsidiary chain of authority, in which political power from the local, regional, national, and European level is incorporated. On each level governments and parliaments are supplied with clearly defined rights, stretching from complete autonomy to shared authority. This is especially valid for the relationship between the member states and the EU. For example, the monetary and currency policy is Europeanised, the security and defence policy is a national task, and many other political areas are managed by common authority. The EU is neither a centralised state today nor will it be one in the future.

This political multi-level system mirrors the fact that European nation states are politically and economically too weak to face the challenges of a globalised world on their own. Conversely, the EU is too large to resolve the specific regional and communal problems of the numerous member states which would also counter the understanding of democracy as well as the negative experiences with centralised regimes. In a dialectic way the post-classical nation states will only keep their ability to act if they mold Europe into a supranational power. In this sense, the transfer of traditional national sovereignty rights is not a renunciation but rather a conglomeration of authority (Keohane 2002) that aims at compensating for the erosion of the nation state caused by the internationalisation of politics and economy. Therefore, the matter of interest is the pooling of sovereignty rights to secure or even re-establish the ability to act.

Some intellectuals, like Jürgen Habermas (1998), regard the thinning out of national autonomy and the transfer of sovereignty as so far developed that they describe the reached level of Europeanisation as a "post-national constellation". Attached to this kind of analysis is a political programme which sees only a united and strong Europe capable of resisting the American desire of leading the world unilaterally with an independent European position aimed at a multilateral world system. The European integration, initially driven by the idea of eradicating inner-European wars, has also been motivated by the aim of becoming an equal partner of the American great power, to which the Europeans feel historically and culturally connected. The European integration process is not over and will surely have to endure setbacks but it has become an irreversible model for the future and a project of modernisation.

2. ECONOMIC INTEGRATION – CHALLENGES FOR THE TRADE UNIONS

It is a longstanding pattern of EU politics that economic cooperation has been used as a means leading to political integration. The most important stages in the creation of the economic and monetary union and the consequences it had for the trade unions can be outlined as follows:

- **European Coal and Steel Community:** At the beginning of the 1950s the then largest economic sector, namely coal and steel, was Europeanised by the founding nations (Belgium, Germany, France, Italy, Netherlands, Luxemburg), organising it by uniform standards and regulations. This step did not have lasting consequences for the trade unions since it was of mutual benefit and the sector flourished in the post war boom.
- **European Customs Union:** The six founding nations established the European Economic Community (EEC) with the Treaties of Rome, coming into power in 1958. The aim was the elimination of inter-state tariffs; the customs union was realized within a ten-year span. Also this time the repercussions on the unions were low.
- **Single European Market:** The common market was a milestone und quantum leap towards realizing a European unity. With the ratification of the Single European Act by the now 12 member countries (Denmark, Great Britain, Ireland in 1973, and later Greece, Portugal, and Spain in the 1980s had joined the EU), the discrimination-free Single European Market (SEM) was created. The agricultural sector is excluded from the regulations of the common market; to the disadvantage of the union citizens and the developing countries the EU has established a highly subsidised and restrictively protected agricultural "market". The goal of the SEM, however, was to dismantle all non-tariff obstacles, to prohibit competition-violating subsidies, to open up protected national markets, and to subject all kinds of economic activities to a uniform competition law by 1992.
(a) On the product and service markets the principle of mutual recognition abolished protectionist regulations and the discrimination against competition from other EU member states. This led to the admission of foreign and on the national market legally produced products into the home markets. The following example is helpful in clarifying the situation: In Germany only beer brewed according to a specific German law was allowed on the market. The principle of mutual recognition now dictates that differently brewed beer from other EU countries has to be admitted; the German lawmakers can oblige home

companies to adhere to the national law but cannot discriminate against foreign beer producers anymore. Tens of thousands of such quality and security based protective rules existed which had to be debunked in time consuming processes. (b) On the money market various national regulations were eliminated to guarantee a free flow of capital. (c) The freedom of establishment was also instituted according to the principle of mutual recognition. A company which is legally registered in one of the member states can open a branch in another EU country and do business without difficulties. In the past, for example, a foreign bank that wanted to do business in Germany had to found a German bank, in compliance with national law, and had to undergo a complicated approval process. Today a licence from the EU member state is sufficient. (d) The free movement of labour gives EU citizens the right to work in all EU countries.

- **Liberalisation:** A specific problem of the common market is the public economic sector, composed of state-owned enterprises with monopolistic rights ranging from post and telecommunication, public transport, health care, energy, wage disposal, savings and other public banks to radio and television. The size of the public sector varies from country to country. The state as an economic player is subject to the rules of the common market, meaning that the opening of the market and the ban on subsidies is also valid for public companies; excluded from this are the sovereign state services such as the public administration, police and military, education and justice (Jacobi and Kowalsky 2002, European Commission 2000 and 2001). Liberalisation does not stand for the privatisation of public firms but for the non-discriminatory access of competitors into the market of public and collective goods which had previously been secured by monopolies. The competitors can be private or public companies from the home country or from abroad. The EU has opened up the market through various regulations but at the same time it has, in line with the principle of common good, provided services of general economic interest, such as the right of adequate postal, traffic, health, and energy supply. The member state can autonomously define how to reach this premise but it is not allowed to favour state-owned companies or discriminate against new entrants. Thus, this development is commonly referred to as supervised or controlled liberalisation. The examples of the post and telecommunication services clarify these changes. In previous years these sectors were in most countries in public hands and were endowed with monopoly rights. Today the Post and Telecom are independent companies moving freely in a competitive market; they have expanded their economic activities beyond national borders and have become multinationals.

They work for profit maximisation and in case the common good principle obliges them to offer unprofitable services they receive financial compensation. Similar developments can also be observed in other segments of the former public sector; the liberalisation process is time consuming and will need another decade to be completed. The described liberalisation is a profound paradigm shift: The understanding of the state has changed right across the political spectrum to the effect that the core business of the state is the provision of sovereign services. The task of the state is not the independent supply but rather the sovereign guaranteeing of basic service.

- **EMU and Stability Pact:** In 1993 the EU member states composed the Maastricht Treaty on the EU (Finland, Austria, and Sweden joined the union in 1995 accepting retrospectively the provisions), establishing a single currency starting 1 January 1999. This end was met even though three states – Denmark, Great Britain, and Sweden – used their right of non-participation. Despite this setback the ECB is successfully steering the European interest and monetary policy since then. Its main task is to maintain price stability, furthermore, it has powerful implementation tools for regulating the main refinancing interest rate as well as providing the economy with money from the central bank. Through the variation of the interest rate and the monetary aggregate the ECB can reward the governments in case of a non-inflation fiscal policy as well as the social partners in exchange for a price level neutral wage policy. Conversely, it can punish the responsible states, employers, or unions when inflation via public debts or wage movement is caused. Wage increases are considered cost-neutral and, therefore, non-inflationary if they do not exceed the growth in productivity. A correct fiscal policy according to ECB standards as well as the Stability and Growth Pact is a balanced public budget and a public debt reduction; the maximum new annual deficit is limited to 3 percent of the gross domestic product (GDP).

The opening of the market has led to deregulation on a national level but to reregulation on a European level where the common market and the monetary union have created a well organized system. National markets have evolved into supranational ones, national industry has become European, national companies have transformed into transnational companies, and national issuing banks have been replaced by the ECB. An impressive feature of the Europeanisation is that all actors, i.e. the transnational bodies and the national governments as well as the companies and unions, are in favour of more harmonization for the sake of fair competition and fair working conditions. SEM and EMU have radically and irre-

versibly modified the conditions for unions which were founded in the specific context of the national economic systems and were accustomed to represent the workers' interests on a national scale. Because of the liberalisation strategy and the limitation of public debts the public service unions are especially facing an intensified compulsion to adapt to the new situation. While the unions have politically supported the European integration without reservations they have barely started reacting to the challenges.

3. SOCIAL INTEGRATION – A CHANCE FOR THE UNIONS?

The European integration is an asymmetric and a multi-stage process. The social integration is lagging far behind the degree of economic integration and is politically neglected despite the official obligation for creating social cohesion and preserving the European Social Model (ESM). However, the tireless efforts of European trade union associations have developed a social infrastructure which is not yet comparable to the dense network of national industrial relations structures but is in size and quality the most advanced transnational system in the world (see Compa and Turner in this volume). The EU has devised a cross-border social system that is not quite complete but sufficient in guaranteeing the trade unions a voice in future social questions (for a more sceptical view see Keller in this volume). The most crucial aspects of the social system are:

- Charter on Fundamental Rights: It belongs to the legal prerequisites of the EU and will be included into the new constitution without changes; it assures the union citizens human, civil, and social rights (European Parliament 2000). The sections "Equality" and "Solidarity" secure extensive rights for the workforce and the trade unions. They encompass
 - the right to basic social security in the case of unemployment, sickness, and old age,
 - free choice of occupation and the right to vocational and further training,
 - the right to written labour contract,
 - protection against unjustified dismissal,
 - right to adequate working conditions,
 - right to health and safety protection on the workplace,
 - the right to limited yearly, weekly, and daily working hours,
 - the right to paid vacation,
 - the right to equality between non-EU aliens and EU citizens,

- the right to information and consultation in the company,
- the right to free and independent trade unions,
- the right to collective bargaining, and
- the right to labour disputes (for more details see Weiss in this volume).

This Charta is commonly regarded as the most modern and most developed document for basic rights. The EU has added framework laws, the so-called directives, to numerous social basic rights (see following paragraphs) but a directive on the right to strike is still missing.

- Social Dialogue: Since the Maastricht Treaty in 1993 social dialogue is legally secured and enables the social partners, namely the employers' association UNICE and the European Trade Union Confederation (ETUC) as well as its affiliated sectoral European member organizations, to participate in the social integration (European Commission 2002). Two forms of social dialogue can be distinguished:
 - o The trilateral social dialogue is composed of the social partners as well as the Commission. The latter has the duty to extensively inform the employers and the trade unions which are affected by the legal initiatives. The social partners are endowed with the right to hearings and the right to present new proposals. The trilateral social dialogue has become an ordinary activity for the three sides. It usually exceeds mere information and consultation; it has developed into a field of negotiations. The results turn into directives which have the general character of European framework laws and have to be integrated into the national legislations (see next paragraph).
 - o The bilateral social dialogue is headed by the specifically involved European employers' associations and trade unions. The Maastricht Treaty requires the social partners to reliably explain to the Commission that they can deal with the issue at stake independently. As a result they are completely free in choosing the dialogue subject and its solution. If a certain issue has already been dealt with during the trilateral dialogue it has to be suspended until the concerned employers' associations and trade unions come to an agreement. In case of a failure of negotiations the subject has to be returned to the agenda of the trilateral dialogue. If the bilateral partners find a solution two different ways lead to the realisation of the agreement. The first option is to turn the agreement into a directive, this way a private contract between the two social partners receive legal status. The other option to put the agreement into practice is using the resources of the European social partners and their national affiliates.

In comparison to the trilateral social dialogue the bilateral one has not generated a good number of directives and has only had modest results. Besides a small number of bilateral sectoral agreements only four cross-sectoral settlements have been negotiated on a SEM level. More precisely, the arrangements deal with parental leave, part-time work, fixed term contracts, and telework; the first three have become directives and the last one is being realised through bilateral transposition agreements (ETUI 2003; Clauwaert 2003). The reason for the limited success of the bilateral social dialogue is on the one hand the defensive position of the employers' associations and on the other hand the lacking strength of the unions to force the employers to the negotiation table. In contrast to this, the Commission can force the employers' associations to participate in the trilateral dialogue by using the powerful threat of a new directive. For the future the trend seems to indicate a greater balance between the two types of dialogue. It is the Commission's interest to strengthen the bilateral dialogue in order to get political relief and to increase the legitimacy of the social integration. Simultaneously the unions expect to broaden their autonomy in regards to European collective bargaining if the bilateral dialogues gain importance.

- Directives: To guarantee a smooth functioning of the economic and monetary union the EU has issued hundreds of directives. Some of them concern the labour market, working conditions, and labour relations:

A crucial domain of the EU is the equality between men and women as well as health and safety protection at the work place. In this realm the EU directives have reached such a high level that the national standards were raised. Since both of these issues are uncontroversial and in the interest of all social partners a very active socio-political legislative process was achieved.

Noticeably fewer regulations were passed on controversial issues. The following two examples should clarify the character of these regulations. (a) The directive dealing with working hours was highly disputed and could, only after long negotiations, be solved with a compromise. It limits the yearly, weekly, and daily working hours, secures paid vacation, and allows the introduction of flexible working time regimes; the latter aspect was passed under pressure of the employers' association. The regular weekly working time was restricted to 48 hours and the paid vacation to four weeks. These are minimum standards which can not be lowered but can be exceeded. In the individual EU countries the social partners have used this leeway and negotiated terms that are more favourable for the work force. In Germany the average weekly working hours

are less than 40, even 35 in the engineering industry, vacation is paid for six weeks, and the working time has become more flexible. The EU directives have created a safety net and a supplementary room for manoeuvre which the trade unions and employers' associations can fill out. (b) The directive on posted workers had to resolve a problem caused by the common market: Since it is now possible that a company starts doing business in another country with its own employees the status of these posted workers had to be determined. An example: A Portuguese construction firm builds with Portuguese workers a road or bridge in Germany. Do these labourers receive Portuguese or German wages? The answer to this question was complicated due to differential interests. Portugal, meaning its government, employers, and trade unions, considered the low pay as a competitive advantage and called for Portuguese wages. In Germany a similar national alliance was formed: the government feared employment reductions, the companies complained about unfair competition, and the unions predicted wage dumping to the disadvantage of their members. The general question arose if free competition should be prioritised, neglected, or equal to social cohesion. The answer was a typical EU compromise. The main provision of the directive states that each member country can introduce a set minimum wage. On the one hand the amount must be so low that low-wage countries can retain their price advantage to a certain extent, on the other hand it has to be high enough to limit the wage undercutting effect. Each state is allowed to establish its own minimum wage valid for the entire market or differentiating between industrial sectors. Furthermore the directive submits rules for working hours, resting periods, social security, checks and punishments in case of violations.

The directive on the workers' information and consultation rights was a time intensive fight against the employers' associations' resistance. Trilateral as well as bilateral dialogues failed, inducing the EU legislative to make a decision without the employers' consent. The main outcome was a 1994 regulation establishing European Works Councils (EWC), affecting multinational companies with more than 1,000 employees in two or more member states. This directive is commonly considered a far-sighted law since it sends out the political message of the EU's commitment to workers' participatory rights and connects it with the social partners' freedom of negotiations. While it leaves national participatory laws untouched it introduces the right for trade unions and the companies' management to negotiate about details of EWCs in multinationals. The result can be an agreement to renounce such a European committee. Conver-

sely, the result can also lead to a EWC with extensive information, consultation, and co-determination rights. Between these two extremes a number of variations are possible. Instead of dictating a mandatory model the directive offers options which the social partners can deliberate and find solutions according to their ideologies or national traditions. As a typical EU safety net the lawmakers have incorporated a minimum standard. In the case no agreement can be reached with the company's management the work force and its trade unions can establish a EWC against the employer's will; here the subsidiary requirements would receive validity, containing the right to be informed and consulted about the economic situation, the future prospects, and the strategy of the company. Today about 800 EWCs exist in multinational companies with around 20,000 work force representatives (Kerckhofs 2002; Kerckhofs and Triangle 2003; Müller and Platzer 2003).

Trade unions and employers' associations are both represented in the advising committees for employment policy, participate in the guaranteeing of services of general economic interest, and have voice in the macro-economic dialogue with the ECB. Considering this influence sphere one can get a good grasp of the various participatory possibilities of the social partners.

4. TRADE UNION INTEGRATION – A TASK FOR THE FUTURE

4.1 Trade Unions on a European Level

Participation in the social dialogue is reserved for the European trade unions and the employers' associations; national organizations are not directly admitted. Therefore the following paragraphs will offer a short overview of the current state and the perspectives of the union integration process (for employers' integration see Pochet and Arcq 2003). All trade union organizations are associations of associations. Consequently, the members are national trade unions and not the single worker herself or himself.

The European Trade Union Confederation (ETUC) is located on top of the hierarchy with two kinds of affiliates, namely (a) the national trade union umbrella organizations and (b) eleven sectoral unions called the European Industry Federations (EIF) (for further information see www.etuc.org and Dolvik 1997).

To (a): Currently (summer 2003) the ETUC represents 78 umbrella organizations from 34 European countries. The ETUC contains more than today's 15 and future 25 EU member states. For example Turkish, Balkan and Baltic states trade unions

are members but not the organizations from the other successor countries of the former Soviet Union. The most important members are the German Trade Union Federation (DGB) and the British Trade Union Confederation (TUC) representing each around eight million labourers; these are followed by the Italian peak organizations Confederazione Generale Italiana del Lavoro (CGIL) and Confederazione Italiana Sindacati Lavoratori (CISL). While the West European trade unions have well established positions regarding social interest representation the organizations from Central and Eastern European Countries (CEEC's) are in precarious situations (see Kohl and Platzer in this volume).

Historically it is important to note that the political division of the national labour movements has been overcome on the European level. Whereas the old fragmentation of catholic and socialist trade unions still influences Western European countries and a chasm has developed in CEECs between newly founded trade unions and the ones stemming from the communist era the ETUC and the eleven EIFs unite all trade unions despite their political orientation. This does not mean that European trade union associations are free of differences rather that the rivalries have given way to a European spirit, characterised by a pragmatic cooperation.

To (b): The eleven EIFs are active on a sectoral level, members are the national industry unions. The main association in the field of the classical industries are the European Metalworkers' Federation (EMF), the European Mine, Chemical and Energy Federations (EMCEF), and for the construction industry the European Federation of Building and Woodworkers' Unions (EFBWW). The European Federation of Public Service Unions (EPSU) and the European Transport Workers' Federation (ETF) are in charge of the public sector and the transport industry. By far the most important association for the service sector is the Union Network International – Europe (UNI-Europe), tending the social interests for the financial, trade, and media sector.

Four further institutes providing crucial services belong to the network of European trade unions. The European Trade Union Institute (ETUI) is the research centre. On the basis of its own research as well as on transnationally composed scholarly networks it is producing frequent publications of which especially the yearly European Trade Union Yearbook and the quarterly *Transfer – European Review of Labour and Research* have to be emphasized. The European Trade Union College (ETUCO) functions as a training agency. It offers multi-lingual Europe-level courses with the goal to familiarize trade union officials and representatives with the European integration process. The European Trade Union Technical Bureau (TUTB) is aimed at promoting a high level of health and safety at work. Infopoint is the trade

unions' central information agency and was recently created to help social partners in setting up projects financed by the EU.

As a conclusion it can be remarked that the trade unions on a European level constitute not quite an Armada but have established a respectable force to represent social interests. Around 300 full-time officials work in the trade union bureaus in Brussels; this is not a small number in itself but in comparison to the 10,000 full-time officials of the German trade unions it is minuscule. For the relation between the trade unions and the EU bodies it is extraordinarily important that exclusively the ETUC and the affiliated EIFs are recognized as the representative organizations. Thus, the ETUC is a monopoly with regards to representing European workers in the social dialogue.

4.2 A twofold adaptation process

As impressive as the European trade union representation seems it should not be ignored that the European trade union integration is still underdeveloped in comparison to the political and economic one. The trade unions think and act in their comfortable national categories, rely on their securely established industrial relations, and have not yet adequately Europeanised their organisational structures. The finding of the High Level Group (2002: 7) has to be supported: "The interaction between European and national levels is the weakest link of industrial relations today". In addition to this the trade unions' ability to act is exposed to a creeping erosion process because of the transfer of economic and monetary political competences to the EU level, the ongoing completion of the common market, and the trend towards market dominating enterprises. The trade unions have to follow the Europeanisation of the markets similar to the 19th century process from local to national markets. They are facing a twofold adaptation process. They have to Europeanise (a) their organisational structures and (b) their political strategies in order to create connected systems of social interest representation from the company to the European level.

To (a): It is essential to strengthen the financial and staff resources of the ETUC and the EIFs as well as to empower these agencies with greater negotiating competences. Corresponding to the political development the trade unions should compensate their lost national rights by re-pooling them on a transnational level. This is a prerequisite to improve their ability to act in the European arenas. The different (better: various) EU bodies will have to pay more attention to the social integration if the unions can close their integration gap. Even more important: The employers could not keep up their defensive position any longer if the trade

unions would negotiate in unison and with empowered organisations. Nevertheless, in the long run the European union associations of associations, dependent on the cooperation of individual national trade unions, will have to turn into European member trade unions with uniform organisational structures and decision making mechanisms. Such ideas and alternatives have been carried out the farthest in the railway sector where it has been planned to create a single European rail worker trade union until 2014. The prospects for realising such an endeavour are not so bad since the economic coercion to adapt is growing steadily in the common market and the increasing cooperation of the trade unions in their European associations has ameliorated the chances for a transition from loosely connected to single European trade unions.

To (b): The interdependence of the European economy has become so strong that national business cycles are not existent anymore. Thus, scholarly discussions and trade union deliberations are advancing on how the national systems of industrial relations can be supplemented to achieve a single European system for collective bargaining. Three different developmental trends can be differentiated (Sisson and Marginson 2002): the proxy model, the British way, or the mainland route.

- The proxy model assigns the role of the European leader of collective bargaining to one assertive national trade union. The most well known example is the German IG Metall (IGM). Since the German metal-processing industry represents 40 percent of the whole European production and the IGM is highly organised it is very probable that the German collective bargaining outcomes influence other countries. This is a kind of internationalised pattern bargaining. This system is not dependent on the Europeanisation of the collective bargaining systems; it is based on functioning national negotiating arenas which are enriched by an intensive information and consultation exchange. This model has even in the past been only the second best solution because it necessitates a relationship of dependence between leading and following trade unions and can easily cause disagreement about hierarchy and co-decision rights.
- The British way to institute a European system of collective bargaining is based on company agreements. Such a model reflects reality in the sense that the European markets are increasingly dominated by multinational companies and the EWCs offer workers' representation which can progress to negotiating instances. This would also be a kind of pattern bargaining exercised by the management and the EWCs of international companies on a European level. The British route is largely supported by the new CEECs but would have far rea-

ching consequences for the West European continental countries since the predominant model of multi-employer industry-wide agreements would be undermined.

- The mainland route to European collective bargaining is based on a transnational network which complements national bargaining structures through a European negotiating level. It has to be a system of collective bargaining relations ranging from company level to the European level, thus reflecting the dual shift towards decentralisation of operational decisions and towards centralisation of strategic decision-making at supranational level. This system graded on the principle of subsidiarity, coordinated in terms of content and its functions shared accordingly is an ambitious goal (Jacobi 1998):

Content	Objectives	Players
	European level	
Collective agreements with minimum standards relating to pay, working hours, working conditions, code-termination rights	Protection against deregulation, social downward spirals, erosion of national protection standards	European employer and employee representative bodies
	National level	
General industrial or sectoral framework agreements	Improving national standards	National or sectoral employer and employee representative bodies
Supplementary agreements for sub-sectors (sectoral windows)	Adaptation to sector-specific conditions	
	Company level	
Supplementary company-related agreements with detailed arrangements	Flexible adaptation to company-specific conditions	Bodies within the company: Management and works council

Further clarification is needed in regards to this model and its possible modifications as well as to the contents of trade union policies on wages, working hours,

and other working conditions. The example of the wage policy helps pinpoint the conceptual-strategic challenges the trade unions are facing:

- **Minimum wage:** The EU policy to use minimum standards to improve the working conditions and to protect against social downward spirals has been successful. In view of the EU enlargement towards the East and the integration of countries with far lower economic production levels and social standards this policy gains significance. The trade unions are given a new broad field of social regulation. The standard solution of having a single and statutory minimum wage for the overall economy, as it is known from Great Britain and France, can be replaced by differentiated and collectively stipulated regulations. Such a system could consist of minimum wages varying from country to country as well as between industries and between workers according to their vocational qualifications. For example the minimum wage in the construction industry could be higher than in the tourism industry and for unskilled workers lower than for skilled workers. In a similar fashion minimum requirements could be negotiated for working hours and general working conditions, creating a complete social standard web which cannot be undercut.
- **European Wage Formula:** The equation "increase in real wages = productivity growth" has become the European wage formula. Whereas the Commission and the ECB insist on an undercutting in the case of unemployment, the unions argue in favour of exceeding pay hikes with regard to less income differentials. In general, however, the European unions have accepted this formula as a guideline for their wage policy and have now to develop a coherent wage strategy which makes use of the enormous potential to differentiation. Variations according to the economic performance and productivity levels of the countries would have the consequences of both higher wage levels and pay hikes in the catching-up CEE countries; this would have an egalitarian effect and limit social dumping through wage-wage competition. A differentiation according to industries would have the opposite effect of broadened income gaps. The unions have to resolve the problem on how to find a new balance between a solidaristic and a differentiated wage approach.
- **Homogeneous industries as bargaining units:** In many countries collective agreements are settled for huge segments of the economy. Multi-industry agreements are regularly settled in the public service sector ranging from public administration, transportation, hospitals, savings bank, waste disposal to culture and education; another example is the metalworking industry encompassing car industry, engineering and machine tool industry, electro-technical industry,

shipbuilding, air and space industry. Such multi-industry bargaining units are not suitable for a European system of collective bargaining because of its great heterogeneity and, consequently, of its excessive requirements for cross-border trade union cooperation. Therefore, the proposal has been submitted to subdivide multi-industry sectors into more homogenous industries which can be used as European bargaining units (IGM 2003). This is a reduction of complexity by adaptation to the economic reality. The economic situation no longer varies between countries but between industries. An example: The difference between the French and the German car industry is relatively narrow with regard to business cycles and technological levels; a single European automotive market has been created on which only 10 multinational car producers are active. Against the background of such markets the unions can aggregate workers' interests and represent them at a European level.

The trade unions have already entered the path towards a European system of collective bargaining (Schulten 2003). One of the pioneers and pacesetters is the EMF that has developed a cross-border strategy aimed at the coordination of the member unions' wage policy (Kuhlmann 2000). The national unions are obliged by EMF resolutions to apply to the European wage formula and to avoid wage agreements that foresee pay levels below productivity levels and pay hikes below gains in productivity. However, the national member unions are sovereign in the way they use the margin of wage growth, i.e. they can combine increases in wages with reduction of working time or improvements of working conditions. The EMF has designed another coordination rule in its "Charter on Working Time". According to this document, the 35-hour week and an annual working time of 1.750 hours have been declared binding goals for all national member unions. Target setting is the favoured approach of the ETUC and its affiliated industry federations.

The European integration has had a sustainable and irreversible effect on the political and economic environment of the trade unions. They were and still are political proponents of the European unity but were often shocked by unintended and unexpected consequences. This resulted in a defensive approach and caused a significant delay in transnational trade union integration. Lately, a change towards a higher level of European consciousness can be observed. In place of a widespread Europessimism a future oriented approach of chance management is emerging (Kowalsky 2000). The trade unions realise the opportunities lying in the ongoing transformation process from nation states to a European stateness and acquire the status of a social architect in shaping the European House.

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THE SOCIAL DIMENSION AS PART OF THE CONSTITUTIONAL FRAMEWORK

1. INTRODUCTION

Presently the project of European Integration is based on two encompassing treaties: The Treaty on the European Community (TEC) and the Treaty on the European Union (TEU).

The TEC in particular has a long history. In 1957, the European Economic Community (EEC) was founded, based on the Treaty of Rome. This contract substantially enlarged by the Single European Act of 1986 was renamed by the Maastricht Treaty of 1993 into TEC. The also Maastricht based TEU came into force on 1 November 1993. Since then, both the TEC and the TEU have been altered and enriched by the Amsterdam and the Nice amendments which came into force in 1999 respectively 2003.

The European Community (EC), the institutional framework of the common market and the single currency, is the most important and most integrated pillar of the European Union (EU). The creation of the EU signifies an important step from a concept of mere economic and social integration to political integration in a broader sense, including provisions on a common foreign and security policy as well as provisions on police and judicial cooperation in criminal matters. The member states of the EU and the EC are identical; this is also true with regard to institutions, organs and procedures.

When the EEC was founded in 1957 it consisted of 6 Member States: Belgium, France, Germany, Italy, Luxemburg and Netherlands. This not only meant a small number of countries but also a rather homogenous economic level. In the meantime the EC has 15 Member States. It not only has become much bigger but it also has got a very diverse economic structure. These discrepancies will increase when in 2004 ten more Member States, mainly from Central Europe, will join the Community as has been decided at the EU summit of Copenhagen in December 2002.

The institutional framework which originally was shaped for the six founding countries has remained to be more or less the same up to now. It is evident that a more diverse and a much bigger Community no longer can be run by the traditional institutional structure. Therefore, it is no surprise that presently attempts are made to develop a constitutional framework for the enlarged Union. One of the impacts of this process will be that the TEU and the TEC no longer will remain to be separate treaties but will be merged in one. The outcome of this process also will decide on the future face of the Community: whether it will end up to become a Federal State or whether it will be an entity *sui generis*.

The following short overview on the constitutionalization of the European project will focus on the social dimension, in particular on fundamental social rights. This discussion will be embedded in some remarks on basic structural features of the Community.

2. EC LAW

The EC (as well as its predecessor EEC) from the very beginning has been a supra-national entity on which the Member States have transferred legislative, judicial and executive powers to a certain extent. In principle the EC only can legislate if it is empowered by a specific provision in the Treaty. However, according to Art. 308 TEC (formerly 235) legislation also is possible "if action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community and this Treaty has not provided the necessary powers". Since this so called annex-competence is very vague it is almost impossible to describe its limits.

In order to make sure that EC-legislation is not eroding the Member States' legislative powers the TEC contains two principles: subsidiarity and proportionality (Art. 5 par 2 and 3). Subsidiarity in this context means that "in areas which do not fall within its exclusive competence, the Community shall take action...only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community". According to the principle of proportionality the Community "shall not go beyond what is necessary to achieve the objectives" of the Treaty. Again in specific cases it can be very controversial what the impact of these principles is. Their main function is the need for the Community's authorities to carefully justify why they do what they do. Whether

this is enough to achieve a fair distribution of legislative power between the EC and the Member States is very controversial. This is one of the problems to be resolved in the present constitutional debate.

The distinction between primary law contained in the Treaty and secondary law enacted on the basis of the Treaty has to be made. The main instruments of secondary legislation are Regulations and Directives. A Regulation "shall be binding in its entirety and directly applicable in all Member States" without any further act of transformation (Art. 249 par. 2 TEC). A Directive, however, shall only "be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods" (Art. 249 par. 3 TEC). In short and to make the point: the Directive is the much more flexible and therefore more important instrument given the diversity of the legislative framework in the different Member States. All EC law – be it primary or secondary – has supremacy in comparison to national law of the Member States.

The European Court of Justice (ECJ) has the exclusive power to interpret EC law. Citizens do not have direct access to the ECJ. If, however, in the course of a lawsuit before national Courts such a question arises it can be transferred to the ECJ for a preliminary ruling which then is binding for the national Court (for details see Art. 234 TEC). This procedure of preliminary ruling is a very frequent interaction between the ECJ and national Courts and has given the ECJ a widely used opportunity to further develop EC legislation.

3. THE LEGISLATIVE PROCEDURE

So far the most important institution in the process of legislation is the Council which consists of "a representative of each Member State at ministerial level, authorized to commit the Government of that Member State" (Art. 203 TEC). It always had and still has the final word. Proposals for legislation are made by the Commission which presently consists of 20 Members, in principle one for each Member States but two for the bigger ones: France, Germany, Italy, Spain and the U.K. (Art. 213 TEC). The Commission has the exclusive power to initiate EC legislation. The European Parliament, consisting of "representatives of the peoples of the States brought together in the Community" (Art. 189 TEC) originally had only a very minor role in this process: it only had to be informed and consulted. In the meantime the European Parliament's position has been strengthened significantly. The most important development in this context is the establishment of the so called

co-decision procedure (Art. 251 TEC) which applies where explicitly reference is made in the Treaty. This includes also matters of social policy as are (1) improvement of the working environment to protect workers' health and safety, (2) working conditions, (3) the information and consultation of workers, (4) the integration of persons excluded from the labour market and (5) equality between men and women with regard to labour market opportunities and treatment at work (Art. 136 par. 1 and 2 TEC). The co-decision procedure is extremely complicated and long lasting. In essence, however, it means that the Council needs the European Parliament's approval to pass a legislative act. In order to facilitate a consensus between Council and European Parliament a Conciliation Committee consisting of members of both institutions can be involved.

Due to the Maastricht Social Protocol, an innovation brought into the Treaty in the context of the Maastricht amendment, there is a special element in the area of social policy, namely the inclusion of the social partners into the legislative machinery. Before submitting a proposal the Commission shall consult management and labour at Community level "on the possible Direction of Community legislation" (Art. 138 par. 2 TEC). If the Commission after such consultation considers Community action advisable it shall again "consult management and labour on the content of the envisaged proposal" (Art. 138 par. 3 TEC). In this situation the social partners may take away the initiative from the Commission and try to reach a bilateral agreement on the matter within nine months. If they succeed to reach an agreement within this time frame they can request the Council to turn this agreement into a Directive and thereby into binding European law (Art. 139 par. 2 TEC). This remains to be the autonomous decision of the Council. According to the Treaty the European Parliament has no role whatsoever in this procedure. Therefore, it may well be doubted whether this corporatistic arrangement is a helpful tool to overcome the democratic deficit of the Community. So far three Directives (on parental leave, on part-time work and on fixed-term contracts) are built on such agreements between the European employer association UNICE and the European Trade Union Confederation ETUC.

In reference to many subject matters the Council only can act unanimously. This originally also applied to matters of social policy. In the meantime in many areas unanimous decision making has been replaced by the qualified majority rule, including social policy. For the topics contained in Art. 136 par. 1 TEC (see above) decisions can be made by qualified majority. In the present constitutional debate it is one of the most controversial questions whether decision-making by qualified majority in the future is to be extended or restricted.

For the purpose of decision-making by qualified majority the Treaty is not abiding to the rule: one Member State one vote. To the contrary the different Member States have a different amount of votes according to the respective country's size. However, this distribution is by no means proportionate. The small countries are overrepresented in comparison to the bigger ones. The balance to be found in this context again is a never-ending source of controversy. To just give an example. Up to recently Germany with a population of about 80 million had 10 votes whereas Luxemburg with a population of a bit more than 400 thousand had two votes. After the reformulation of this balance between big and small Member States in the Nice amendment the figures in this relationship now are 29 to 4 which means in the very end a stronger influence of the big country. In order to make sure that a big group of small countries together with one or two big ones cannot overrule a significant part of the Community a double majority is necessary since the Nice amendment. This means that it is not sufficient to have two thirds of the votes – as in principle it was the case before Nice – but these votes also have to represent two thirds of the Community's population (for details see Art. 205 TEC).

4. LEGISLATIVE POWERS IN THE AREA OF SOCIAL POLICY

When in 1957 the EEC Treaty was concluded it was the prevailing philosophy of the founding fathers that there is no need for a social policy of its own. Even if there was an awareness of the danger of "social dumping" between the Member States, there was still a stronger belief, that the merger of the economies to a single European Market will lead automatically to a gradual harmonization of social policy throughout the Community. Therefore the focus was almost exclusively on the framework necessary to establish a common market: free movement of workers, freedom of establishment, freedom to provide goods and services and free movement of capital. Of course free movement of workers does have implications on social policy. But first of all it is understood to be a necessary precondition for the common market. The Community's powers to establish rules in the area of social policy were close to nothing. In the preambula of the Treaty the intention to continuously improve the living- and working conditions was mentioned. According to Art. 117 the Member States were encouraged to develop progressively the living- and working conditions and according to Art. 118 the Commission was given the task to promote cooperation between the Member States in the area of social policy. There was only one exception: According to Art. 119 (now Art. 141 par.

1 and 2 TEC) of the Treaty the Member States were supposed to respect the principle "equal pay for equal work" for men and women. This provision, however, was merely meant to prevent social dumping by using women as cheap labour. There was no social consideration. In short and to make the point: the original Treaty of the EEC only contained a minimalistic approach to social policy.

It is important to remember that the Community made progress in the area of social policy not because but in spite of the Treaty. In view of the increasing unemployment of the early seventies the politicians of the Member States more and more gained the insight that progress in social policy is by no means an automatic implication of the establishment of a common market. Therefore the summit of 1972 in Paris urged the Community to take energetic steps in the area of social policy. This not only led to a detailed social action program but to a whole range of directives which were based on Art. 100 (now Art. 94 TEC) which empowers the Community to legislate in order to fight distortion of competition or on the already mentioned Art. 235 (now Art. 308 TEC) which establishes an accidental competence for the Community in case the specific legislative powers are not sufficient to reach the Treaty's goals. Both articles evidently have no specific link to social policy. Nevertheless they were used as a basis for the Directives on equal opportunities for men and women as well as for the Directives on protection of workers in case of collective redundancies, in case of transfer of undertakings or in case of the insolvency of the employer. It was no problem that these steps only could be taken by unanimous decision of all Member States: the unanimous compassion of all Member States was the driving force.

This pragmatic approach to social policy, however, turned out to be very fragile. It totally broke down when in 1980 due to the change of government in the U.K. unanimous decision-making was no longer a realistic option. The vulnerability of the social policy side of the EU became particularly evident when the U.K. opted out from the Maastricht Social Protocol.

Nevertheless and mainly due to the Commission's President Jacques Delors as a driving force for promoting the European social dimension the Community's powers to legislate in the area of social policy were steadily increased. First steps were made by the European Single Act of 1986 to be continued by the Maastricht and Amsterdam amendments. Today the Community enjoys a wide-ranging competence covering practically all questions in the area of social policy except "pay, the right of association, the right to strike or the right to impose lock-outs" (Art. 137 par. 6 TEC). However, for all matters not contained in the list of Art. 136 par. 1

TEC (see above) legislation still requires unanimous decision-making in the Council.

5. THE ISSUE OF FUNDAMENTAL RIGHTS

5.1. The Need for Clarification of Fundamental Rights

Already very early in the development of the European Community fundamental rights became an issue. When the jurisdiction of the ECJ destroyed any doubts about the supremacy of Community law over the law of the Member States, this position was questioned by those States who had a constitution containing fundamental rights. In particular the German Federal Constitutional Court was not willing to accept this dogma of supremacy as long as there was no guarantee that the level of fundamental rights as provided by the German constitution would be respected by the ECJ. Since the Treaty mainly was focusing on the freedoms of movement of capital, goods, services and workers in order to optimize market conditions, it was not at all clear what its position was towards fundamental rights. Therefore, the danger of a deconstruction of the platform of fundamental rights on national level could not be excluded. It, however, soon turned out that fears of this kind were unjustified. By referring to the European Convention of Human Rights (this convention and its Strasbourg located Court belong to the Council of Europe which is an EU-independent intergovernmental organization mainly concerned with human right affairs) and to the constitutional traditions of the Member States the ECJ established a jurisdiction which was and still is based on fundamental rights. An informal collaboration between the European Court of Human Rights and the ECJ has been established. Thereby a safeguard has been existing to make sure that the ECJ's interpretation does not run in conflict with the position of the Strasbourg Court. In view of this development the German Federal Constitutional Court gave up its opposition and declared to respect the supremacy of European law as long as the ECJ is following this path. The ECJ not only maintained but even strengthened the efforts to build its jurisdiction on the sound basis of fundamental rights.

The practice as exercised by the ECJ now is confirmed by the TEU. According to Art. 6 par. 2 "the Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional

traditions common to the Member States, as general principles of Community law". And Art. 46 lit. d TEU stresses that the ECJ is empowered to enforce Art. 6 par. 2 TEU "with regard to action of the institutions, insofar as the Court has jurisdiction under the Treaties establishing the European Communities and under this Treaty". In addition Art. 136 par. 1 TEC in laying down the objectives of social policy refers to "the fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers".

In view of this situation the question arises why at all one should bother about a Charter of Fundamental Rights. Would it not have been sufficient to leave everything as it is? A closer look clearly shows the deficiencies. The reference system in the EU and EC Treaties is vague, confusing and not at all enlightening. Is it unclear in what way the European Convention, the constitutional traditions of the Member States, the European Social Charter and the Community Charter are to be observed by the Community. In particular the wording of Art. 136 par. 1 TEC ("having in mind") leaves open whether the two Charters the article is referring to are only meant to be a very unspecific point of orientation or whether it means that each part of these Charters is directly to be applied. The latter is very unlikely. It has to be kept in mind that the Governmental Conference establishing the Amsterdam Treaty was confronted with the claim to integrate into the Treaty a catalogue of fundamental social rights in order to make the Community's social profile transparent for everybody. This request evidently was not met, last not least for the reason that fundamental social rights might have implied additional costs for the Community and for the Member States. Therefore the mere reference to the two Charters has to be interpreted as an alternative to such a catalogue of fundamental social rights, merely referring to the underlying values of those Charters in a very unspecific way. And of course the most unspecific part is the reference to the constitutional traditions of the Member States. It is extremely difficult to specify what this may mean. These constitutional traditions are very different. Some countries do have written constitutions, others don't. Some constitutions contain a bill of rights, others don't. The fundamental rights guaranteed by these constitutions differ significantly. Is the mentioning of the constitutional traditions of the Member States a reference to a specific constitutional tradition or rather to the average, to the top or to the bottom? This remains to be unclear. Finally the question arises whether other international Treaties containing fundamental rights – as for example the ILO conventions – are to be excluded for the mere fact that there is no reference made to them. The result of this sketchy analysis turns out to be frus-

trating; in view of the Treaties it remains in the dark what fundamental rights are forming the basis of the EU and to what extent they are guaranteed. The citizens of the EU are unable to recognize these rights. There is no transparency whatsoever. Therefore, it becomes evident that there is an urgent need to specify the rights which are considered to be the basis for the Community and which define its specific profile. There is no other way but to elaborate a comprehensive catalogue of such rights and to make it visible for everybody by integrating it into the Treaty. In this respect the Charter of Fundamental Rights as accepted at the EU-summit of Nice in December 2000 is a first important step. The Charter, however, was not integrated into the EU-Treaty but was adopted as a so-called Solemn Declaration; the Charter is a political commitment but was not transferred into binding EU law. Therefore, the more difficult part – the integration of this Charter into the Treaty – still remains a task to be fulfilled.

5.2. The Genesis of the Charter of Fundamental Rights of the EU

In order to influence the Governmental Conference elaborating the terms of the Amsterdam Treaty the Commission of the European Communities put up a group of experts, the so called "comité des sages", to analyze the state of affairs concerning fundamental rights and to make recommendations of what to do. The group presented its report in 1996, strongly pleading for the integration of a catalogue of fundamental rights into the Treaty. The recommendations suggested by the "comité des sages" were supported, further specified and strengthened by a second group of experts on Fundamental Rights which presented its report in 1999. Even if the recommendations of the "comité des sages" were ignored by the authors of the Amsterdam Treaty they kept alive the discussion on this very issue. By establishing the second group of experts the Commission took the opportunity to increase the pressure to overcome the weaknesses and inconsistencies of the Amsterdam Treaty as sketched above. Thereby the ground was paved for further action in promoting fundamental rights.

During the German presidency the EU-summit in Cologne in June 1999 took the decision to establish a body, the so called Concilium, to elaborate a text for a Charter of Fundamental Rights. At the EU-summit in Tampere in October 1999 the composition of this Concilium was determined. This decision was based on the assumption that this drafting body should enjoy utmost legitimacy. This request was met by the fact that almost three quarters of the members of the Concilium were members of parliaments: out of the 62 members of the drafting body 30 came

from national parliaments and 15 from the European Parliament. Each Government of the 15 Member States and the Commission were each represented by one person. The Concilium presided by the former German head of state Roman Herzog not only enjoyed a remarkable democratic legitimacy but was in addition supposed to perform its activities as transparently as possible and to include in its deliberations opinions of different groups of society. Not only each of the finally fifty versions of the draft was put into the Internet but also the different suggestions for amendments. The internet became a pool for extensive discussion, providing important feedback to the Concilium.

As far as the content of the catalogue of fundamental rights was concerned, there was from the very beginning full agreement that it was necessary to integrate into this catalogue all the rights contained in the European Convention of Human Rights. The question was of what to add in order to meet new challenges and to really provide an EU Charter of Fundamental Rights for the society of today and tomorrow. These deliberations led among others to the inclusion of the right to the protection of personal data (Art. 8) and of the right to education and to have access to vocational and continuing training (Art. 14), to just mention two prominent examples. The chapters on dignity (Art. 1 to 5), on freedoms (Art. 6 to 19), on equality (Art. 20 to 26), on citizens rights (Art. 39 to 46) and on access to courts and to effective remedies under the label of "justice" (Art. 47 to 50) turned out to be relatively unproblematic, at least in principle. The controversies arising in the context of these chapters mainly referred to details and to the manner of how to put the wording of the different provisions, in an attempt to make sure that the rights included do not remain to be merely wishful thinking but really are rights to be challenged in Court or to establish an obligation for the Community to be respected and met by its organs. The real battle was on the inclusion of the so called fundamental social rights which now are listed up in the Chapter "solidarity" (Art. 27 to 38).

5.3. Civic versus Social Fundamental Rights

In view of the emphasis given to fundamental social rights in the preceding discussion it was pretty clear that the Charter of fundamental rights to be elaborated was supposed to contain a chapter on fundamental social rights. The "comite des sages" as well as the second group of experts on fundamental rights stressed in their respective reports the necessity to put fundamental social rights within the Charter on the same footing as the classical civil liberties. This position, however, met strong resistance throughout the deliberations of the Concilium. Until the very

end it was not at all clear whether fundamental social rights would remain to be included or not.

The arguments pushing back fundamental social rights are well known. These rights either are denounced to be rights of a minor importance compared to the classical political rights or – even worse – they are considered to be no fundamental rights at all. They are denied not to be rights because they first of all impose obligations to the political actors to build up a framework in order to allow individuals to enjoy these rights. Fundamental social rights often are categorized as being merely defining political goals, thereby creating illusions and expectations which cannot be met. The inclusion of such goals often is supposed to de-legitimize all the rest of the Charter. Therefore, according to such views only judiciable rights should be permitted to the category of fundamental rights.

It is certainly correct that it is a characteristic of fundamental social rights to be judiciable only to a limited extent and to mainly formulate goals to be met by the State, or in the case of the EU-Charter by the Community. There is quite often no or at least not yet an individual's right to be directly enforced but first of all an obligation to be fulfilled by the political authorities. This, however, does not say anything against these rights' quality as fundamental rights. In this context it is important to understand that fundamental rights are reflecting the value system a society is based upon.

It is wrong to categorize fundamental social rights to be of a minor quality compared to the classical fundamental rights. The guarantees of freedom and equality only can be enjoyed in a substantial way if there is a social structure allowing the individual to take use of such rights. Anatol France's famous statement, according to which the rich and the poor have the same right to sleep under bridges, demonstrates impressively the perversion classical freedom rights would suffer without a social structure supporting them. Therefore classical fundamental rights and fundamental social rights are the two sides of the same coin. They cannot be separated, but have to be integrated. Or as the report by the Comité des Sages puts it: "The civic and social side of the building of Europe cannot remain its poor relation for it would increasingly become a source of weakness, whereas it should and can become a source of progress, a goal to be attained". It was this very insight which finally led to the inclusion of fundamental social rights into the Charter.

It has to be stressed that of course not only the rights as listed up in the chapter on "solidarity" do have an impact on the social sphere, in particular on the employment relationship. There is a whole set of such rights of utmost importance in the social context. To just give some examples: the prohibition of forced labor (Art. 5),

the protection of personal data (Art. 8), the freedom of thought, conscience and religion (Art. 10), the freedom of expression and information (Art. 11), the freedom of association which implies the right of everyone to form and to join trade unions for the protection of his or her interests (Art. 12), the already mentioned right to education and to have access to vocational and continuing training (Art. 14), the right to engage in work and to pursue a freely chosen or accepted occupation (Art. 15), the comprehensive prohibition of discrimination (Art. 21), the guarantee of equality between men and women (Art. 23), the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community (Art. 26) or the citizens' right to free movement (Art. 45). All these rights do have a social side which cannot be separated from the remaining content. This shows again that the borderline between so called classical fundamental rights and fundamental social rights is difficult to be drawn. It is no longer possible to define fundamental social rights as a specific category. In any event they comprise much more than what is contained in the chapter on "solidarity".

5.4. The Chapter on "Solidarity"

The Charter's chapter on "solidarity" contains twelve provisions of a very different nature. The articles referring to health protection (Art. 35), to environmental protection (Art. 37) and to consumer protection (Art. 38) as well as the right of access to services of general economic interest (Art. 36) are mainly defining goals for the politics of the EU in a very broad and unspecific sense. However, the articles on health care as well as the article on services of general economic interest at the same time establish an individual right to services under the conditions established by national law and practices. The provision referring to social security and assistance (Art. 34) abides exclusively to the latter pattern and establishes an individual right in the framework as established by national laws and practices as well as by Community law. Art. 33 on protection of family life in its first paragraph contains an institutional guarantee and in the same paragraph a very vague and unspecific political goal (Art. 33 par. 1) as well as an individual right (par. 2). Prohibition of child labour and protection of young people at work is guaranteed as an individual right (Art. 32). The same is true for the rights of access to a free placement service (Art. 29), to protection against unjustified dismissal (Art. 30) as well as to the right to fair and just working conditions (Art. 31). The rights of collective bargaining and collective action are guaranteed as a subjective right either for workers and employers or for their respective organizations (Art. 28). Finally Art. 27

provides for a subjective right for either workers or their representatives on information and consultation.

It is important to stress that the authors of the chapter on "Solidarity" did not repeat the mistake made in previous drafts: to include the program of social policy as a whole. They – at least in principle – succeeded not to confuse the fundamental rights with the instruments necessary to promote the values as expressed by such fundamental rights. However, there are still parts to be eliminated. To just give an example: The guarantee contained in Art. 31 par. 2 according to which "every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave" is nothing else but a specification of the guarantee provided by par. 1 of the same article, the right "to working conditions which respect his or her health, safety and dignity". Such specifications do not belong in a Charter of Fundamental rights. They refer to the instruments by which health, safety and dignity of working conditions are to be achieved. If they are confused with fundamental rights, this well might lead to de-legitimation of the Charter as a whole or at least of the chapter on "solidarity".

In spite of some minor deficiencies, it should be stressed that the mere fact that a whole chapter of the Charter has been devoted to fundamental social rights is already in itself an important progress. It is the result of a very controversial debate during which compromises were reached. Therefore, it cannot be surprising that the Chapter does not contain an ideal structure and a fully coherent concept. And for the same reason the existing inconsistencies and deficiencies should not be overestimated. They might disappear in the course of integrating the Charter into the Treaty. It, however, should not be forgotten that the existing compromise only was possible in view of the fact that as a compensation to fundamental social rights "the freedom to conduct a business" (Art. 16) now is recognized in the Charter. This means that always a balance will have to be found between the fundamental social rights and this freedom to conduct a business.

5.5. The Impact of the Charter for the EU

The Charter is an expression of the fact that the EU is a Community based on values. All powers given to the Community – be they legislative, executive or judicial – are to be performed in respect to these fundamental values. The set of values contained in the Charter means for the population of the EU a new possibility to identify itself with the European project. And it has to be understood also as a signal to the candidate countries to make sure that the respect for these values is a precondition for joining the EU.

Fundamental rights as contained in the Charter will significantly facilitate the role to be played by the ECJ. As already mentioned the ECJ has contributed in an impressive way in introducing fundamental rights into the Community by referring to external sources like the European Convention of Human Rights and by referring to internal sources like the constitutional traditions of the Member States. However, it cannot be expected from the ECJ to develop a holistic and coherent concept of fundamental rights by itself. This would endanger the ECJ's legitimacy because the Court would have to play a role which is not the judiciary's one. The Charter takes away pressure from the ECJ by providing for the Court a reference system within which the ECJ can remain within its proper role. This does not mean that the ECJ will no longer be important in the context of fundamental rights. Just the other way around: the ECJ's legitimate and challenging function will be to interpret and clarify the vague notions of the Charter. The Charter, of course, only will lead to this effect to its full extent, if it is embedded into the Treaty. However, already now the ECJ refers to an increasing extent to the Charter as supported and adopted by all Member States, even if in a legally non binding version.

The mere fact that the Charter in one and the same text combines classical fundamental rights and fundamental social rights means a lifting up of the relevance of social policy within the Community. Social policy no longer can be understood as merely a marginal annex to EU politics: now it definitely has become an essential part of it. At least as important is the signal given by the content of the chapter containing the fundamental social rights. They include collective rights, they insist on the Community's and the Member States responsibility for providing job security, for providing working conditions which respect the worker's health, safety and dignity and for protecting young people at work. They furthermore insist on measures to make family and professional life compatible and to provide social security as well as social assistance. Taken all this together it becomes pretty evident that this is a concept which would be incompatible with mere de-regulation, de-collectivization and de-institutionalization. Or to put it in broader terms: it would be incompatible with a strict neo-liberal approach. Thereby the chapter on "solidarity" reconfirms the European social model and strengthens it. Of course: whether this model on the long run will survive in the global context, is an open question.

6. THE PRESENT CONSTITUTIONAL DEBATE

As concluded in the Nice summit of 2000 a new Conference of the Representatives of Government will be convened in 2004 to adapt the Treaties to the challenges of the enlarged EU and of the globalized world in the 21st century. For this purpose a specific body, the so called Convention, has been established "to propose a new framework and structure for the EU which are geared to changes in the world situation, the needs of the citizens of Europe and the future development of the EU". In essence it is supposed to draft a "constitution", even if it is not clear at all how it will be named in the very end. The Convention is composed of 15 representatives of the governments of the Member States (one of each Member State), 30 members of the national parliaments (two from each Member State), 16 members of the European Parliament and two Commission representatives. This composition shows clearly that the successful model of the Concilium which prepared the Charter now is repeated. There is general consensus that the important decisions to be made cannot be left merely to Conferences of the Representatives of Government but need a broader basis of legitimacy. And again transparency of the discussion process is an important element of the present debate.

The Chairman of the Convention, the former French president Giscard d'Estaing, presented a first draft of a "Constitution for Europe" on 28 October 2002. Thereby it is now possible to at least draw the basic lines of the future face of the Community. Instead of several Treaties there will be only one. And most probably the EU will be renamed into something else (perhaps United Europe or United States of Europe) to thereby demonstrate the innovation.

The first part the Treaty will regulate goals and the organisational structure of the Union, including the questions of citizenship, the powers of the EU authorities, the institutions, the legislative procedure, the democratic structure, the financial structure, the role of the EU in the global context and the preconditions for EU membership. An essential element of this first part will be the integration of the Charter of Fundamental Rights into the Treaty, even if it is not yet clear whether the full text will be reprinted in the Treaty or whether only reference will be made to the Charter which then would remain to be an Annexe to the Treaty. So far the majority of the Convention is favouring the first solution. In order to provide utmost transparency it certainly would not be sufficient to simply refer to the Charter somewhere in the Treaty. By merely reading the Treaty the European citizen must get a chance to see the whole catalogue of fundamental rights. Only the inte-

gration of the full text corresponds to the importance fundamental rights are to be given in the European project.

One of the most difficult tasks is the restructuring of the EU institutions. In adapting them to the needs of the enlarged Union a balance has to be found between a shape which allows the institutions to properly function and the interests of the individual Member States to be represented therein. And it also will be difficult to rebalance the relationship between the European Parliament and the Council.

The second part of the Treaty will clarify the different areas of EU politics and specify the powers the Union has in reference to each one of them. In view of social policy it is important to mention that in November 2002 the Convention has set up a "Working Group on Social Europe" to develop a proposal for a comprehensive concept of this field of politics.

In a third part procedural questions of ratification etc. will be regulated as well as such delicate topics as how to handle a Community with twenty different languages.

It is much too early to make an assessment of details of this ambitious constitutional project. And of course it is an open question whether the Convention's proposal will be accepted by the Conference of the Representatives of Government in 2004. However, the experience with the Charter shows that the pressure imposed by the result of the deliberations of such a body with high democratic legitimacy is rather high. Therefore, there is hope that the EU in its renamed version soon will have a coherent constitutional structure which will be a sound basis to cope with the challenges of the enlarged Union in the 21st century. And there is also hope that the social dimension will be a prominent and stable part of it.

THE SUPRANATIONAL REGULATION OF EMPLOYMENT RELATIONS – THE EXAMPLE OF THE EU

1. INTRODUCTION AND PRESENTATION OF THE PROBLEM

1.1 Introduction

National employment relations and social policies have long been pursued in all developed industrial nations, but their scope has been limited by territorial boundaries. Since the 1980s, as a result of the liberalisation of financial and capital markets and the internationalisation of product markets, there has arisen a need also for the supranational regulation of labour markets, which, unlike other markets, have remained predominantly national preserves. The purpose of such forms of regulation is – rather than leaving the social consequences of “europeanisation” and “globalisation” (as variants of internationalisation) to the free play of market forces, as advocated by neo-liberal and conservative preaching and practice – to seek actively to influence these consequences so as to narrow the considerable and even increasing gap between the economic and the social dimensions of integration and, equally, to apply the principles of a welfare state at the supranational level.

It might be expected that, within the European Union (EU), the prospects for successful supranational regulation would be comparatively favourable, since at the present stage of advanced economic interpenetration and – in comparison to other less integrated economic communities (such as ASEAN, NAFTA or Mercosur) – gradually increasing political integration common institutions and procedural rules for the resolution of conflicts have been put in place. Attempts at supranational regulation, intended to complement rather than to act as substitutes for those in force at national level, generally come up against considerable political and institutional difficulties, for the extent to which regulation of individual policy fields actually serves the interests of private and national corporate actors is highly variable.

1.2 Presentation of the problem

In the following pages we will investigate selected basic problems of central import for industrial relations and labour market policy. It is necessary, for the purposes of analysis and understanding, to distinguish three interrelated levels which, with their pronounced and continuing differences, are of relevance for the social dimension of the "internal market", namely, the company level, the sectoral level, and the economy-wide level. Though the current discussion and literature focuses primarily on the problems associated with the company level, while neglecting the sectoral level, the latter is of considerable significance at least for two-tier industrial relations systems (such as are found in Germany or Austria), the essential characteristic of which – unlike the single-tier systems (as in Great Britain) – continues to be the "contradictory unity" of co-operation based on a division of labour between actors at company and at sectoral level, i.e. works councils and trade unions (Ferner/Hyman 1998).

The specific problems arising at the micro, meso and macro levels ought to be investigated not only in relation to the stage of policy formation but also, insofar as this is possible at the present stage of development, in relation to the implementation phase of regulatory measures. The transposition and implementation of European framework regulations at the various lower levels represent a separate and to date inadequately analysed phase of the policy cycle. Sector-specific features (e.g. in the construction industry or telecommunications), which represent significant divergences from general development trends, will not be taken into account here because of the need to focus the contribution. Equally, we will not go into detail about the genesis of the problem, since this aspect has been adequately documented elsewhere.

2. THE COMPANY LEVEL: INTRODUCTION OF RIGHTS ON INFORMATION AND CONSULTATION

2.1 Development up to the mid-1990s

The salient facts of the "prehistory" can be briefly recounted (Keller 2001). The controversy over the company-level introduction of workers' rights on information and consultation had been going on since the early 1970s in the context of the increasing numbers of multinational companies (MNCs) resulting from mergers, takeovers and joint ventures. On the one hand, various failed proposals prepared by the Commission and supported by, among others, the trade unions had come to

grief on account of the opposition of the national and, above all, the Union of Industrial and Employers' Confederation of Europe (UNICE). On the other hand, the political decision-taking procedure enshrined in the Treaty on European Union (Article 100 TEU) was a highly significant factor: since unanimity was required in the Council of Ministers, one country's veto was sufficient to prevent a decision. Throughout the 1980s the British Conservative government could be relied upon to issue such a veto.

Because of the resulting chronic political stalemate, individual worker representations had sought, since the mid-80s, to conclude equivalent agreements with their company managements on a purely voluntary basis, as a means of remedying strategic deficits and shortage of information and consultation. By 1993/94, first in the nationalised French multinationals and later also in German ones, around 30 agreements had come into being (Müller/Platzer 2003). The number of these voluntary – and hence reversible – agreements was increasing, admittedly, but yet remained small; even so, they took on a certain pilot character along the path to binding and generalised regulation by legislation, though the extent of the rights of information and consultation invariably remained quite limited.

2.2 The European Works Council (EWC)

Directive and its implementation

In 1994 a Directive was adopted "on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees" (94/95 EC). Its stated aim is to "improve the right to information and to consultation of employees" (Article 1) in companies with "at least 1,000 employees within the Member States and at least 150 employees in each of at least two Member States" (Article 2). The Directive defines exclusively procedural rules, all substantive issues are to be settled in negotiations between representatives of "management and labour". If they do not manage to reach an agreement, so-called "subsidiary requirements", defined in an annex to the Directive, are applied. Adoption of this Directive became possible only thanks to an institutional change in the Protocol on Social Policy and its Agreement – routinely referred to as the social protocol – first adopted as an annex to the TEU, the "Maastricht Treaty", and later incorporated, without substantial change, into the main body of the Amsterdam Treaty – the member states converted the decision-taking procedure in a number of fields to be mentioned later in some detail.

This Directive had to be transposed by all member countries by 1996. The member states were free to choose the mode of transposition (via legislation or agreement) and the overwhelming majority chose in favour of legislation, since the necessary preconditions for the collective agreement mode (including high coverage rates of national collective agreements, legal options of declaring an agreement to be generally binding) were not met. In some cases – which included Belgium and Italy – implementation was via a combination of centralised agreement and complementary legislation.

Until the end of the transposition period – though this is at first sight in contradiction with national legal rules – the corporate actors could continue to conclude agreements on a voluntary basis. Employees' representatives and managements in some 400 MNCs covered by the Directive took advantage of this option (Marginson et al. 1998). It was not only more straightforward to conclude a company-specific arrangement than to go through the protracted procedures provided for by the Directive but also such agreements could be brought into force more quickly in order to be used, among other things, in the event of company restructuring. Furthermore these so-called "Article 13 agreements" enjoyed continuing validity, provided certain minimum conditions were met (among others, applicability to all MNC employees, cross-border information and consultation rights). In congruence with this option their vast majority has remained in force in spite of the existence of a legally binding Directive.

Since the beginning of this stage of introduction of EWCs – i.e. autumn 1996 – further agreements have been concluded, according to the standard procedure laid down by the Directive, i.e. the so-called "Article 6 agreements", albeit at a distinctly lethargic pace (Marginson/Carley 2000) which is indicative of the substantial difficulties entailed in setting up additional EWCs. This current development indicates also that the relative acceleration in the conclusion of voluntary agreements during the transposition phase (1994-1996) should not be overrated in terms of its strategic significance. In more recent years growth rates have been much lower. Quite obviously, there are lasting difficulties that have not come to an end when the Directive was passed. In figures (Kerckhofs/Cox 2002): There are in existence between 650 and 700 EWCs in more than 1800 companies falling within the terms of the Directive. If the number of MNCs is taken as the indicator for measurement, the coverage rate is around one third; this "strike rate" is (at about 60 percent) significantly higher if the workforce numbers concerned is taken as the criterion because it tends to be in the larger MNCs that EWCs have been set up.

These most recent figures indicate that, despite the existence of the EWC Directive, a significant number of MNCs continue to be sceptical about it or to reject it out of hand. They seek, in the first instance, to exploit the two-year period allowed by the Directive for waiting or negotiation by the so-called special negotiating body; in the contracts to be concluded they concede as little as possible or reach agreements that represent mere compliance with the minimal level of the subsidiary requirements of the Directive. Thus, in contrast to widely shared assumptions at the beginning, complete coverage constitutes an unrealistic goal.

2.3 Problem areas in an empirical perspective

The composition of EWCs (exclusively employee representatives as in Germany, or joint employer/employee bodies as in France) and their mode of operation follow established national patterns, as shown by international comparisons (Marginson et al. 1998). The first comparative empirical analyses which do not only deal with the texts of concluded agreements describe not just formal patterns but also informal information and communication networks, analysis of which reveals four distinct fields of action (Lecher et al. 1999, 2001):

- EWC – national interest representation;
- EWC – management;
- EWC – trade unions;
- formal and informal co-operation of EWC members.

The development of internal and external co-operation is fraught with considerable difficulty on account of lack of experience and continuing differences of interest not only between management and employee representatives but also within each of the two sides (e.g. between representatives from the parent companies and those from the subsidiaries, between managements using the EWC to further their own interests, emergence and formation of structures for internal leadership and a new division of labour, significant problems of relationships between EWC and national trade unions).

All existing EWCs have information and consultation rights only, and not genuine co-determination rights in the strict sense of veto rights; they cannot thus be compared with national interest representation bodies, for example the German works councils. They prove useful in the solution of problems that are purely a matter of information and consultation because they do improve the conditions of transnational information and communication. Beyond this their options for action are rather limited (among others, on matters of investment decisions, production transfers or plant closures) and they are hardly in a position to make

deals on a give-and-take basis because of their lack of real bargaining power. On top of this, there face practical difficulties in their daily activities (including language problems, low frequency of meetings, lack of institutional underpinning).

The negotiated contents of the agreement enable, on the one hand, a high degree of company-specific flexibility, while on the other hand making it harder, on account of their high "variance", to achieve a more harmonised development, something which would require substantial provisions by legislative enactment. A further problem is that – by analogy with the meanwhile sufficiently familiar so-called "company syndicalist" trends at national level – the supranational actors can develop systems of group-oriented negotiations on the basis of specific, parallel interests (e.g. in health and safety protection, questions of re-training and further training). Tendencies of this kind are likely to weaken existing national collective bargaining systems (Marginson/ Sisson 1998).

2.4 Interim conclusion

Our rather ambivalent interim conclusion is as follows: at company level the different stages and problems of supranational setting of standards are to be observed at their most pronounced. The process of European regulation is further advanced here than at any other level on account of the existence of the EWC Directive; however, it is still in an implementation phase, which entails considerable problems. Furthermore, the degree of involvement agreed i.e. in terms of information and consultation rights of the EWC, is less, both *de iure* and *de facto*, than what has already been achieved at the level of at least some advanced national regulations (such as works councils in Germany). In other words, it exceeds existing standards only in a few cases.

Yet EWCs could, on account of their institutionalised status, become the nucleus for the development of European industrial relations. Such a development is, however, unlikely to show a two-tier character and is bound, as such, to entail significant repercussions at the national level. Last but not least, the question of whether EWCs will in the medium and long term develop from information forums into effective interest representation bodies is still open, not to speak of that of the actors' readiness to cooperate, which would be required under the two-tier industrial relations systems as defined at the outset (Lecher et al. 1999, 2001).

2.5 Prospects: involvement at company level

There are so-called monistic as well as dualistic systems of *corporate governance* or, in another terminology, single-tier versus dual-tier systems of management

structure and employee involvement on the board. In the latter variant, activities and performance of the management board are monitored and controlled by an additional organ, the supervisory board (Austria, Denmark, Germany, Greece, Netherlands, Portugal). This basic distinction is missing within the first form, the so-called board (or board of directors) system (Ireland, Luxembourg, Spain, Sweden, also Italy and the UK). Some countries (such as Finland and France) are characterised by a combination of both systems (Group of Experts 1997). All in all, institutional differences in existing national regulations at the "upper" level are even greater than at the "lower" level not to mention the variety of national "customs and practices" that have developed over time and are definitely going to persist.

For a long time there existed no arrangements concerning the involvement of workers at company level – by analogy with the above analysed workplace level –, although the Commission had repeatedly put forward proposals since the 1970s (Kowalsky 1999). Even changes in the mode of regulation introduced at the end of the 1980s were powerless to dissolve the stalemate in terms of interests because unanimity was still necessary for decision-making in the Council of Ministers. The revised proposals intended to serve as a complement to – rather than, as previously, a substitute for – national regulations, and to foster a general increase in flexibility rather than a harmonisation, and as such to prove more acceptable and conciliatory to the member countries.

In the mid 1990s the Commission linked the introduction of an independent European public limited-liability company (in Latin *Societas Europaea*, or SE) – in which the MNCs might be expected to show an interest, in general terms for tax reasons and in specific terms at that particular juncture because of economic and monetary union – to the agreement of involvement arrangements. The conception drawn up by the so-called Davignon Commission (Group of Experts 1997) proposed the SE as an option for corporate governance, not as a compulsory corporate form. After a number of further compromise proposals by Member States holding the EU presidency, in 2001 an arrangement was agreed, after more than three decades. It consists of two parts, namely the "Regulation on the Statute for a European Company" (2157/2001) and the "Directive supplementing the Statute for a European company with regard to the involvement of employees" (2001/86/EC).

The SE can be brought into existence by a merger between existing companies, the founding of a holding company, the founding of a joint subsidiary or the conversion of an existing share company into an SE, if a joint subsidiary has been set up. The simple conversion of a national company into an SE is not allowed. All in

all, the complicated arrangements amount to preserving the status of national regulations. In each SE, i.e. regardless of thresholds about workforce numbers or country of origin, it is required that the workers be involved in the management of the firm, and this is to be guaranteed by representation on the company bodies (management board, supervisory board) irrespective of differences in corporate governance (single-tier versus two-tier structure of company statutes).

The political implementation, which is difficult on account of, among other things, considerable national differences is dominated by a regulatory pattern equivalent in a number of respects to the principles of the EWC Directive (Keller 2002): procedural instead of substantive prescriptions, predominance of the principle of optional introduction rather than generalisation, preference for the negotiation of specific "flexible" rights and involvement forms at company level instead of the prescription of single, unified framework regulations laid down by law, pre-eminence of the subsidiarity principle (Article 2), i.e. consideration of national and company-level features, definition of subsidiary requirements in the event of failure of the negotiations.

As a result of these provisions a minimum amount of corporate involvement - likely to remain slight - will be introduced for the first time in all member states. Transposition of the Directive from the European to the national level has to be completed by 2004. Only after that date can SEs be founded. Accordingly, no empirical information is available as yet, concerning for example the number of SEs or the choice of forms of founding. The consequences for national industrial relations will be quite variable, as will individual agreements.

3. SOCIAL DIALOGUE AS AN INSTRUMENT OF EUROPEAN SOCIAL POLICY

3.1 From the "old" to the "new" social dialogue

The "old" social dialogue, in existence since the mid-80s between the Commission and the European organisations of social partners (ETUC, UNICE, CEEP), as the negotiating parties are called at European level, dragged on for years, leading only to a series of common positions (on the introduction of new technologies, adaptability of the labour market and access to vocational training, among others). These joint statements, which were not binding on future decisions by the social partners, invariably contained symbolic declarations of vague intent rather than practical policy measures. They ran the full gamut of commonplaces but without ful-

filling the high expectations of some actors, above all the trade unions but also the Commission, in relation to binding agreements.

In the early 1990s, by means of the already mentioned social protocol, the member states (initially without Great Britain) extended the opportunities for influence on the formulation of EU social policy which had already existed, albeit in relatively limited fashion, in the "old" social dialogue. The social partners did not only receive the guarantee of a formalised two-stage consultation, first on the direction, then on the content of all Commission initiatives. If they desire, "the dialogue between them at Community level may lead to contractual relations, including agreements" (Article 4, para. 1). Furthermore, the social protocol provides two alternatives for implementing framework agreements. First, the social partners can implement them "in accordance with the procedures and practices specific to management and labour and the member states." Second, the signatories to an agreement can "jointly request a Council decision on a proposal by the Commission" (Article 4, para. 2).

This "new" social dialogue is a concrete instance of renewed adherence to the *subsidiarity principle* with its strict emphasis on decentralised and private regulation and introduces the pre-eminent status of quasi-autonomous negotiated agreements over legislative regulation. If voluntary negotiations fail the Commission can decide to finish the regulatory project by legislative means. The social partners can conduct these dialogues at both central or "interprofessional" and sectoral level. In the following analysis these two levels will be considered separately.

Furthermore, the social protocol introduces qualified majority decision-making instead of the previously required unanimity in the Council of Ministers in relation to some legislative proposals (occupational health and safety protection, working conditions, worker information and consultation, equal opportunities of men and women on the labour market and equal treatment in the workplace and the incorporation into the labour market of excluded groups). On the other hand, core issues (pay, right of association and industrial action) are expressly ruled out.

3.2 Results of the social dialogue at central level

To date the European social partners at central level have attempted in only a few cases to embark on negotiations or conclude framework agreements. Some attempts (above all the already mentioned, prominent EWC proposal) failed in the early stages; the Commission had to take over again and to finalise these regulatory projects by legislative means. All in all, only four attempts proved successful and led to agreements (1996 parental leave, 1997 part-time work, 1999 fixed-term

contracts, 2002 telework) (Falkner 2003). While the Commission and some social partners regard the agreements as extremely positive and as indicative of the direction to be taken for the further development of social dialogue, external observers and also several of the parties involved have criticised their content as minimal and as of limited significance for the development of European social policy or industrial relations.

What we would say here is that the first framework agreements are more important in procedural terms – i.e. on account of the further development and actual shape of the implementation procedure and of the establishment of customs and practices – than in material terms, and for this reason we will examine their content no further (Keller 2001 for details). In only a few member countries do they serve to improve upon already existing standards, thereby constituting an instance of the classic dilemma of European social policy, which by stipulating minimal standards is bound to be merely selective in its impact. In empirical terms, the frequently encountered optimistic conclusion that a new quality of European social policy has been achieved as a result of the options opened up by the social protocol (Falkner 1996, 1998) is at best overhasty if not mistaken, since its arguments are merely formal, taking the fact of the conclusion of framework agreements as tantamount to significant content and successful implementation.

On the one hand, the problems pertaining to the implementation and national transposition of these framework agreements are considerable on account of inadequately developed procedures. These problems relate to the following: the representativeness of the federations; the extent of their powers to make settlements; the exact definition of rights of European corporate actors, above all the Commission, the Council of Ministers and the European Parliament; the quality of the directive as a regulatory instrument; the forms and consequences of the option to achieve transposition and implementation by law and/or agreement. Empirical analysis shows that the necessary procedures, both in the social protocol itself and in the relevant social dialogue communications from the Commission (1993, 1996, 1998, 2002), are formulated only in cursory and rudimentary terms; they are gradually given real shape and form only in the course of implementation of the first agreements by means of a political process of trial and error (Keller/Sörries 1998, Keller/Bansbach 2002).

Even if the current problems of implementation are able to be solved or at least reduced in the process of implementing further framework agreements, substantial progress is hardly to be expected on account of enduring differences of interest between the social partners. The employers' organisations wish primarily to

preserve the status quo, since this is what best serves their interests. They renounce their position of veto in individual instances out of tactical motives alone and not because of any shift in their underlying convictions. The most important European employer association, UNICE, will continue in the future to enter negotiations when – and only when – the Commission issues a credible announcement or threat that it is about to launch an initiative; the purpose of this “bargaining in the shadow of the law” (Bercusson 1994, 20) is to control the progress of the procedure and exercise greater influence over the content of agreements than would be possible in the framework of a legislative procedure. Accordingly, as far as UNICE is concerned, the institutionalised provisions of the social protocol have indeed altered the overall conditions and context but not the underlying purpose of its action. Whereas, in the past, lobbying represented the appropriate strategy to prevent regulation, what is now required to this end is participation in negotiations.

3.3 Social dialogue at sectoral level

Under the terms of the social protocol, social dialogue may, as mentioned above, lead to binding framework agreements at sectoral level as well as at central level. The resulting agreements can, as is the case under those national systems where collective bargaining is conducted by sector, be even more flexible and specific than those concluded at central level, the results of which tend, moreover, to relate to social policy rather than collective bargaining issues. In addition, the interests of the actors might be expected to be more homogeneous and the need for europeanisation greater in the different sectors than at central level (Treu 1996; Traxler 1996).

The “old” sectoral social dialogues, which took place in joint committees and informal working parties, led to a whole series of joint statements. Assessments of the value of their work diverged. On the one hand, they contributed to the improvement of mutual understanding and the exchange of information; on the other hand, they did not represent binding framework agreements. Declarations of this kind were already possible before the adoption of the social protocol; we can trace them back as far as the 1960s. Initiatives arose typically in specific service sector (e.g. transport, insurance, telecommunications) and less in the major manufacturing sectors (e.g. metalworking and chemical industries) which play the leading role at the national level. In terms of content, such declarations focus on social policy issues, which better lend themselves to agreement insofar as they are in the interest of “both sides of industry”, while avoiding the conflict-ridden core issues of industrial relations (Sörries 1999 for details).

These significant differences in terms of sectoral developments prompt two hypotheses:

- Where Community powers are well established (as in the agricultural or coal and steel sectors), the sectoral dialogue is comparatively well developed and has produced results; sectoral integration promotes evolution of the corresponding social dialogue.
- The uneven level of development is also attributable to processes taking place in the internationalisation of product and labour markets, insofar as these differ from one sector to another; in more strongly internationalised sectors (such as telecommunications, transport, construction) the preconditions are more favourable than in those that are primarily geared to national requirements (e.g. public sector).

On account of this unsatisfactory situation not only has the Commission strongly criticised the old form of sectoral dialogue but in 1998 it actually dissolved this dialogue, replacing it with new unitary "sectoral dialogue committees" (Keller/Bansbach 2002; Keller 2003a). The new procedures have so far yielded some results. In a quantitative sense, the number of agreements concluded has increased, it is true; in qualitative terms, however, there are still no binding agreements. One reason for this lies in the inadequate development of the necessary institutional prerequisites. The problems arising are similar to those at the central level: representativeness of European peak associations, transfer of negotiating mandate from the national to the European level, granting of ad hoc or permanent negotiating mandates by the member associations.

Finally, as far as it is possible to ascertain, the problems of implementing results would – just as at the central level – be considerable. What is more, the "internationalisation" of the interest associations on both sides, above all among the employers, is proving difficult. On the trade union side there exist, in all sectors, supranational associations of national unions in the form of the European industry federations (EIFs), which are members of the ETUC peak association. These could develop – not in the short, but in the medium term, and getting the requisite resources – into bargaining partners.

On the employers' side, by contrast, the peak association UNICE has no corresponding sub-structure. Associations are far from existing in all sectors and those that do exist, frequently in a highly fragmented state (as in the metal industry), cannot be automatically assumed to show a readiness and capacity for negotiating. This constellation means that the EIFs have no negotiation partners. The employers' organisations have even less interest in supranational framework

agreements at sectoral level than at central level, so that it is highly unlikely that in the foreseeable future their associations will develop a generalised and differentiated network.

Whether independent associations or member associations with divergent sectoral interests (particularly in terms of "qualitative" problems such as training or working time arrangements) might possibly pursue a different policy and introduce autonomous activities is difficult to predict at present. Moreover, UNICE has been trying, since the early 90s – by developing an informal network, the European Employers' Network – to facilitate, on a voluntary basis, an exchange of information and experience on sectoral activities and strategies, as well as to achieve a horizontal and vertical co-ordination of social policy positions (Hornung-Draus 1998).

3.4 Interim conclusion

For the reasons stated, an explicit distinction needs to be drawn between centralised and sectoral social dialogue on the one hand and collective bargaining on the other, especially as the social protocol, as already mentioned, explicitly excludes central areas of industrial relations. The fundamental novelty of the social protocol does not consist, as is frequently asserted, in the institutionalisation of double consultation or the authorisation of the social partners to conclude framework agreements. What is of definite significance, by contrast, is the shift from unanimous to qualified majority decision-making in some specific fields, because vetoes maintained by individual member states then forfeit their importance.

The Commission will – should social dialogue turn out to be important as a social policy instrument in the future, and in spite of the enhanced status of the social partner organisations or the renewal of and strict emphasis on the subsidiarity principle in the social protocol – of necessity remain the central actor in the regulatory process, by systematically making use of its right of – or monopoly on – initiative. The hesitant stance of the present Commission, in stark contrast to the significantly higher level of activity of the Delors Commission, is evident from the fact, among other things, that, in the framework of a neo-voluntaristic type of policy, it introduces no really new initiatives. It merely latches on to older ones – including the social charter or its action programme dating back to the late 1980s but for a long time of unresolved legislative status on account of the veto policy of Great Britain – while relying for the rest on improved implementation and consolidation of the results achieved so far.

Initiatives by the Commission, which, under both variants of the social dialogue, would have to be the promoter in the institutional apparatus and process manager

of negotiations, are highly unlikely, especially at sectoral level, because of the existence of internal and external differences of interest, i.e. between the various Directorates General (DGs) involved and between the sectoral associations. Moreover, the exact relationship between the centralised and sectoral dialogues is both theoretically and empirically hazy and it is not possible simply to assume that this relationship is one of complementarity.

In the light of the weaknesses, above all of the sectoral dialogue, some national trade unions or EIFs (among others in the metal industry) are trying to develop an alternative strategy of "europeanisation" which is less dependent on the constitution of European employer associations. They are at pains to develop a stronger co-ordination of their national collective bargaining policies, in the first instance for the purpose of information supply and transmission, subsequently with the goal of developing common guidelines and strategies (among other things a return to a productivity-oriented wage policy, the laying down of minimum standards for working time or the general prevention of a downward spiral of competition (Schulten/Bispinck 2001; Schulten 2003). The demands agreed on a cross-border basis still have to be pushed through in the face of national employers' associations. In this scenario the active development of the sectoral social dialogue does not have a particularly high profile. It may be that in the future we will be faced with diversified paths to "europeanisation", the interrelationships among which would then require clarification.

4. EUROPEAN EMPLOYMENT POLICY

4.1 Development in the 1990s:

from the White Paper to the Employment Title

At macro level, in view of the high unemployment (11-12 per cent) in virtually all member states, the prospects and possibilities for a European labour market and employment policy became a focus of major interest in the early 1990s. The first major sign of interest was the White Paper on Growth, Competitiveness, Employment of 1993 which proposed, among other things and in the framework of a policy mix, a diversified set of measures of neoclassical and Keynesian inspiration and was intended to serve as a blueprint for the co-ordination of national employment policies. In the wake of the White Paper came an action programme on the promotion of employment and various recommendations presented at subsequent summits (Essen, Madrid) which led in fact to no practical outcome (Goetschy 1999).

In mid-1997 the employment chapter was incorporated, as a separate Title, into the Amsterdam Treaty. It had been already a controversial issue at the intergovernmental conference for treaty revision ("Maastricht II"), initially favoured by a few member states only and rejected by others. As a result of this political turning point, which was attributable to public pressure and, above all, to changes in the political majority conditions in some large member states (France and Great Britain) and hence in the Council of Ministers, the prospects for co-ordination of national employment policies were expected to improve (Keller 2000).

Along the same pattern as other policies, employment policy is, since 1997, being conducted in the following manner: the Council of Ministers presents, on a proposal from the Commission, guidelines for the member states' policies in the form of medium-term goals to be achieved. The member states implement these framework guidelines in the form of multiannual "national action plans," the choice of means and instruments for this implementation being left up to them; they report on an annual basis on the most important measures. The national implementation is subjected to examination by the Council of Ministers and the Commission, according to a common procedure of evaluation of the results. Furthermore, the Council of Ministers may, by qualified majority, address to the member states recommendations and incentive measures designed to promote co-operation between them and to support their employment policy by initiatives. The measures are designed to raise, at the same time, both effectiveness (through majority decisions) and legitimacy (by concentration on the national central employment questions).

4.2 Problems of implementation

The problems of a European employment policy, which is still in its early stages, consist primarily in the need for co-operation by member countries in the implementation of goals (e.g. proportion of young persons or long-term unemployed in active measures, training and further training) and in their financing (e.g. development of trans-European networks) (Goetschy 2003).

In employment policy the Commission traditionally – unlike in the other policy fields with which it dealt – had no powers. Its opportunities for influence and action are doubtless strengthened by the option of formulating guidelines and issuing recommendations; even so, apart from the co-ordination of national measures it still has few real powers. These fields remain fully subject to national sovereignty so that a genuine European policy *stricto sensu* has not come into being. Since there is no provision for sanctions in the event of failure to comply with or to

achieve the goals set – unlike in the case of the Economic and Monetary Union (EMU) convergence criteria for short-term as well as long-term deficits (of 3 and 60 per cent of GDP) – there is, strictly speaking, from the standpoint of the member states, no real necessity to cooperate. This constellation of interests gives rise to a dilemma. The partners who wish to cooperate do not need incentives; those who do not wish to cooperate have no incentive to do so.

The requisite funding can come either from the European Investment Bank or from the EU budget. Both options come up, however, against considerable restrictions, not only in terms of volume but also on account of different ideas about distribution or national employment policy paradigms. Significant shifts within the EU budget, which is still (to the tune of almost 50%) dominated by agricultural policy spending, are politically unrealistic. The same applies to an increase in the current maximum expenditure (of 1.27% of EU GDP) because all member countries, above all the net contributors (especially Germany, the Netherlands, Great Britain, Sweden), would prefer to pay less rather than more; furthermore, the eastwards enlargement of the EU will require very considerable outlays. A third option, namely a considerable increase in national expenditure on employment policy, is also ruled out by the high indebtedness of all public budgets; this situation is made worse by the need to fulfil the public spending criteria for accession to EMU, in particular by the strict limitation on new debt at 3 per cent of GDP and the need for preservation of so-called *sustainability* after the accession, which make expansion of national finance policies virtually impossible.

Furthermore, the ideas of the national and European social partners about the necessary conditions and measures of a successful employment policy differ just as much as do those of the member states (among other things in relation to flexibility and deregulation and the extent and appropriate instruments of active employment measures). The additional problem arises that, in the reports on implementation of the national action plans, purely quantitative approaches frequently predominate because of the need to demonstrate the “successes” of one’s own policy to the outside world. In addition, as in the other policy fields outlined, massive implementation problems are bound to continue, since the Commission, given the shortcomings of its own institutions and instruments, is thrown back on the member states. The prognosis is thus that these first steps towards a European employment policy are being developed in a predominantly exhortative mode and are unlikely to extend much beyond the exchange of information (including about best practices) (Keller 2003 b).

5. SUMMING UP AND PROSPECTS

5.1 Summing up

When it comes to summing up this rather condensed analysis, it should be apparent that the supranational regulation of employment standards within the EU is all in all – in relation to procedures but above all in relation to contents – inadequately developed. It is, moreover, differently developed at the separate levels (micro-, meso- macro levels). Beginnings of an independent “European” development – the prospects of which are, it must be said, uncertain – are so far apparent at company level alone. This is a development attributable to the EWC Directive, the importance of which is undoubtedly increasing in a period of decentralisation, more company-level regulation and frequent mergers.

At sectoral level the social partners have as yet concluded no binding framework agreements, though the possibility for such agreements is present. Their absence strengthens the trend towards development of single-tier, company-oriented “European” industrial relations along the lines of what is the predominant practice in some member states (e.g. Great Britain) and may be expected to entail, above all, corresponding repercussions for two-tier national systems, the sectoral component of which could be weakened.

At macro level, exclusively piecemeal developments can be reported and they are, in terms of content, rather marginal. Moreover, the results, such as they are, are in a rather general social policy vein, bearing no specific stamp. All in all, social dialogue is pretty limited in scope, whether in relation to the central level or to its sectoral variants.

The employment chapter of the Amsterdam Treaty offers, at most, some rudiments for the co-ordination of national policies but not the development of autonomous European policies for which the co-operation of member states – not necessarily forthcoming – would be required, and financing and implementation problems would have to be solved.

Alongside legal and institutional difficulties and various problems of implementation, this situation is primarily attributable to problems of organisation and the differing interests of the social partners. Agreements are reached above all in those areas where interests run parallel (occupational health and safety protection, for instance), while, in areas of divergent interests – typical of the majority of central problems of industrial relations – the protagonists who are unprepared to cooperate find it more advantageous to stick to the status quo as a means of preventing more far-reaching solutions.

What can be observed is, in many respects, a distinct change in regulatory concepts characterised by a movement from "hard" to "soft" law. Until well on into the 1980s the predominant thrust was towards genuine harmonisation, in the sense of a unilateral approximation of all to accord with the best or highest national arrangements, to be achieved by means of harmonisation of differing legal standards (in participation or co-determination matters, for instance).

In the early 1990s, on the contrary, given the difficulties experienced in implementing this approach, the prevalent idea became the introduction of binding fundamental or minimum standards which could be exceeded, but not undermined, at the various levels; these were designed, from the standpoint of "northern" member countries, to prevent both competition from below and downward levelling and, above all, from the standpoint of the "southern" member countries, to ensure that the demands made were not excessive. These newer concepts were less ambitious and far-reaching than the earlier ones in terms of content but politically easier to push through; nonetheless, they came up against the difficulties we have described.

To the current examples of the Employment Title and the European Company Statute is to be added a third type of regulation – more ambitious in terms of its implicit prerequisites but also less far-reaching – characterised by the mere co-ordination of national measures. This open method of co-ordination is even more of a "soft law" approach dispensing with classical legislative means than its predecessors (De la Porte/Pochet 2002).

A peculiar policy mix of negotiation and legislative components, rather unusual at national level but favoured at EU level – because of the subsidiarity principle – is typical of the current tentative search for regulation along these lines. Moreover, the new attempts are geared, to a greater extent than the older ones, to precepts of procedural rather than substantive regulation (seeking to influence procedures as distinct from contents). Furthermore, there is a need to ensure that European regulations will be compatible with what are, in virtually all the areas concerned, highly differentiated national standards, and this can be achieved only by means of a rather general reference framework allowing considerable room for manoeuvre in terms of national implementation. Leeway will in this way be provided for renewed and more or less intensive lobbying at national level after adoption of the European settlement, so that the member states' loss of independent action or sovereignty is confined to a minimum.

5.2. The prospects

In the light of these current developments, processes entailing a stronger diversification and fragmentation of working conditions and labour standards appear more likely than the homogenisation or strict harmonisation invariably feared by Euro-pessimists and hoped for by Euro-optimists. We will continue to be faced with a "patchwork of minimal social standards" (Rhodes 1995, 103) or relatively isolated individual measures and not with developments towards anything resembling a single "European social model". Such a trend will, if anything, be further strengthened by the so-called eastwards enlargement.

The long-standing gap between economic and social integration (or market versus policy integration) has not yet been closed – in spite of a great deal of lip service to the contrary, for instance in the run-up to the Maastricht Treaty – because the interests of the protagonists are not convergent. This gap may well widen even further in the future in the context of continuing if not accelerating economic and sluggish social integration. While the introduction of EMU increases or heightens the need for regulation in the wake of complete integration of the hitherto national financial and monetary policies, there is every sign of an absence of suitable concepts and instruments for the achievement – in the medium term – of standards that are, by and large, procedural. The outcome, alongside the shortcomings in terms of content, would be to render even more acute the considerable problems of legitimacy and acceptance already facing the EU.

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EU EASTERN ENLARGEMENT: EXTENSION OR END OF THE EUROPEAN SOCIAL MODEL?

How does the Eastern enlargement of the EU affect the prevailing social model in Europe? This is the question we will try to answer in the following paper. The object of the assumed threat, the European Social Model (ESM), is not a very precise construct, but a vague ensemble of different institutions, policies, values. The Treaties of the EU protect social rights, the social dialogue and require from the Union to promote economic and social progress, a high level of employment, and to strengthen economic and social cohesion (Art. 2 TEU). Trade unions are an acknowledged pillar of that model. More generally, it is assumed that Europe – more than other societies such as the U.S., for instance – cares for equality which it tries to achieve by a mix of decent wages and relatively low wage dispersion, redistributive policies, and a wide range of free or cheap public goods and services.

Let us start discussing the effect of enlargement with the pessimistic view, whose elements we will then analyse in more depth:

The association and imminent accession of eight to ten very poor post-communist transition countries to the European Union are increasing the adjustment pressures on labour markets and social policies. A prominent German economist, Hans-Werner Sinn, the director of one of the leading economic think tanks, the ifo Institute in Munich put it the following way: "Die durch die hohen Löhne verursachten Standortprobleme unseres Landes werden sich potenzieren, wenn die Europäische Union im Jahre 2004 um zehn Länder erweitert wird. ... Man muss kein Ökonom sein, um zu erkennen, dass sich das deutsche Standortproblem zu einer äußerst schweren Strukturkrise der gesamten Wirtschaft auswachsen wird, wenn keine Maßnahmen zur sofortigen und tief greifenden Flexibilisierung des deutschen Arbeitsmarktes ergriffen werden." (Sinn 2002: 15-16). Low-skill jobs will become less and less competitive in the exposed tradables sector of the richer member states. The emergence of new jobs in the service industries could well depend on lower wages and less protective labour market regulations. The correction of those pressures on the primary distribution of incomes by redistributive public policies or active employment policies is increasingly constrained by the common monetary policy, the Stability and Growth Pact, and tax competition.

How do these arguments stand up to more searching empirical and theoretical scrutiny? We will start with an analytical description of the perceived threat to the ESM, the post-communist transition and accession countries. In section 2, we analyse and largely discard possible causal links between the integration of these economies (and globalisation in general) and the decline of the ESM. However, evidence presented in section 3 shows that social justice, in particular employment and equality, has declined in the EU during the 1990s. But, as we see in section 4, deepening the EU might have a stronger impact than widening on the ESM. However, that impact varies strongly from member state (section 5). Finally, the last section 6 argues that enlargement actually affects an ESM which is already subject to a double transformation on the national as well as on the EU level.

1. THE THREAT OF ENLARGEMENT: POOR POST-COMMUNIST COMPETITORS

How could the ESM be threatened by enlargement?

The association and (later) accession of several post-communist countries has integrated a large pool of low-wage labour in the emerging pan-European economy which will affect employment, growth and income distribution through import competition, investment flows, relocation of production and migration. The candidate countries will not reach the levels of income and social security available in the richer countries for a long time (see Tables 1 and 2).

Table 1: Income gap of the accession countries relative to the EU

Country	Level of GDP per capita in PPP (EU-15=100)			Years required to reach 75% of EU-15 average
	1996	2000	2004	
Bulgaria	25	24	31	31
Czech Republic	65	60	68	15
Estonia	33	38	48	19
Hungary	47	52	64	11
Latvia	26	29	36	27
Lithuania	29	29	35	31
Poland	36	39	45	33
Romania	33	27	33	34
Slovakia	46	48	56	20
Slovenia	66	72	85	1

Source: UN-ECE, *Economic Survey of Europe*, No. 1 (2002), p. 183.

Enlargement adds more potential locations to the integrated European economy that are conveniently close to the industrial core regions of Europe. Moreover, Central and Eastern Europe has structures of income, skills, infrastructure, regulation, industrial relations, and social protection that are (still) very different from those of the present member states. These differences create opportunities for competitive advantage. The combination of lower transaction costs and higher cost differentials in the enlarged Euroland could produce a "globalisation-effect" within the larger Europe that would then exert adjustment pressures that dwarf those traditionally associated with the term "globalisation" and the competition of low-wage countries of the Third World (see Dauderstädt 2002a).

Table 2: Labour markets in the accession countries

Country	Unemployment rate		Average real monthly wage (€)	
	1994	1999	1994	1999
Bulgaria	20.5	17.0	77	65
Czech Republic	4.3	8.7	201	294
Estonia	7.6	11.7	116	217
Hungary	10.7	7.0	267	274
Latvia	18.9*	14.5	109	177
Lithuania	17.4	14.1	68	166
Poland	16.5	15.3	195	286
Romania	8.2	6.8	71	69
Slovakia	13.7	16.2	155	231
Slovenia	9.0	7.6	617	785

* 1995

Source: Belke and Hebler, op. cit., pp. 40 and 60.

The accession of the post-communist candidate countries could also be seen as a means of reducing the differences between the socio-economic structures there and those in current member states. Neoliberal critics of the enlargement in particular warn that the "premature welfare states" (to use a term coined by János Kornai) of the transition countries will render catch-up growth difficult if not impossible (see Belke and Hebler 2002). In fact, social spending in the transition countries is relatively high given their level of income.

Table 3: Inequality and social spending in accession countries

Country	Gini index*		Social spending 1997 (% of GDP)	
	1987–90	1996–8	Pensions	Health and education
Bulgaria	0.23	0.41	6.2	7.4
Czech Republic	0.19	0.25	8.9	11.2
Estonia	0.24	0.37	n.d.	12.2
Hungary	0.21	0.25	9.4	11.4**
Latvia	0.24	0.32	10.7	9.5
Lithuania	0.23	0.34	7.0	9.7
Poland	0.28	0.33	15.1	11.2
Romania	0.23	0.30	n.d.	5.9
Slovakia	n.d.	n.d.	8.0	10.7
Slovenia	0.22	0.30	n.d.	13.3

* The Gini index is an indicator for inequality ranging from 0 (perfect equality) to 1 (absolute inequality with all income going to the richest person or household)

** 1996

Source: Gini index: World Bank, *The First Ten Years. Analysis and Lessons for Eastern Europe and the Former Soviet Union*, Washington (2002), p. 9; pensions: Nicholas Barr, "Reforming welfare states in post-communist countries", in Lucjan T. Orłowski (ed.), *Transition and Growth in Post-Communist Countries. The Ten-Year Experience*, Cheltenham (2001), p. 186; health and education: EBRD, *Transition Report 2001*, London (2001).

It is not yet completely clear which model or type of welfare state they will adopt. On the one hand, they show the characteristics of the continental type (financing social security by wage-related contributions), while on the other hand, they have established multi-pillar pension systems (Wagener 2002). Labour market flexibility is at the level of the most flexible EU member states (Belke and Hebler 2002:70). Although trade unions and industrial relations are well established in Central and Eastern Europe, they tend to be weak where it counts, namely in the new private sector. Trade unions and defenders of a strong welfare state in the present member states, in particular Germany and Austria, which are more exposed to developments in the East, hope that enlargement will prevent a "race to the bottom" by forcing the new members to adopt higher social standards. EU-membership will actually limit the choice between different "varieties of capitalism" (Hall/Soskice 2001) that the transition countries basically had after the collapse of communism. Neither liberal, free-market varieties (as e.g. Estonia tended to adopt) nor state-led development strategies of the East-Asian type are compatible with the *acquis communautaire*.

Twelve years of opening up and transition have already created a highly integrated economy across Europe. The share of the EU in the external trade of the

applicant countries is as high as it is within current EU member states. The same is largely true of foreign direct investment. Most analysts do not expect dramatic further increases after accession as gravity models of international trade show that the regional structure has already reached the levels to be expected given the geographical distance and relative income of the economies involved (see Dauderstädt 2000). Further strong increases in FDI are not very probable given the fact that privatisation is almost complete.

Even successful catch-up growth based on EU regional assistance and strong FDI inflows will probably not reduce inequality in Central and Eastern Europe, though it may help to reduce unemployment, on the example of the unique success story of the Republic of Ireland (see O'Hearn 2001). The Irish case shows that you can achieve high growth through foreign investment but that you have to pay a high price. A substantial share of the Irish GDP consists of profits of foreigners thus lowering the share of wages from 77% in 1980 to 53% in 2001 and pushing Ireland in the income per capita league of the EU from rank 5 (GDP/cap) to rank 10 (GNP/Cap). The GNP that measures the income of the Irish is more than 20% lower than the GDP that measures the value added produced in Ireland (or rather accounted for in Ireland because multinational enterprises increase artificially the profits in their Irish subsidiaries through transfer pricing in order to avoid taxes and to benefit from low corporate tax rates in Ireland).

It is hard to imagine for Central and Eastern Europe as a whole to repeat that success. Up to now, only Hungary has shown signs of following that strategy to some extent. If more countries succeeded that would not bode well for the ESM. It could trigger a race to the bottom regarding taxes and wages. Presently, only Hungary has a low rate of corporate taxes (18%) while rates in Poland and the Czech Republic range above 30%. But Poland plans to lower the rate to 22% in 2004 and free market Estonia has a zero rate (Barry 2002: 14). Of course, taxes are only one ingredient of competitiveness and attractiveness to foreign investors. In the end, productivity and unit labour costs are decisive.

The past record of development of poor countries joining the EU is far from promising. Ireland joined the then EEC in 1972 and virtually stagnated for 20 years. Greece became a full member in 1981 and experienced a long-term relative decline in income per capita that it could only reverse in the 1990s. Portugal and Spain benefited basically from the run-up to the Monetary Union and the declining interest rates that triggered a boom in the late 1990s. Otherwise, their income per capita relative to the EU average had not improved substantially. Even worse is the record of poor regions like the Mezzogiorno or Eastern Germany though they

benefited not only from EU funds but also from massive national aid. Thus, it is very likely that the income disparities in the enlarged EU will remain big and persistent. (Dauderstädt/Witte 2001)

To summarise: The threat from the East is likely to be on the one hand more persistent, and on the other hand less severe than some people (e.g. Sinn 2002) expect. It will be more persistent because income disparities are bound to remain high because of inefficient national and EU policies. It will be less severe as EU integration and egalitarian preferences in the transition countries will burden the locations with costs that undermine their price competitiveness, at least in the short run, though it might lead to higher levels of welfare in the long run.

2. THE GLOBALISATION OF EUROPE: SCAPEGOAT OR REAL THREAT?

Will the rise of new competitors in the East and their unmitigated access to the markets of the incumbent member states after 2004 really endanger the ESM and produce the dreaded stereotypes of globalisation, i.e. undermine the welfare state, weakening labour, and harming the poor?

As a matter of fact, integration, liberalisation and opening markets ("globalisation") affect employment and income distribution. Let us focus first on different aspects of globalisation and integration that may also function as possible causes of rising unemployment and inequality within the enlarging EU:

- *Trade*: according to classical trade theory, international trade should increase welfare. It does so by fostering specialisation of production, resulting in an increase in productivity. If demand does not increase at the same time, unemployment will increase. Welfare gains can also be distributed differently between the countries participating in the exchange. Moreover, if trade occurs between countries with different endowments of production factors and hence different relations between factor prices (that is, income from utilisation of those factors), trade should increase demand (and hence the price, and so income) for relatively abundant factors and reduce demand for relatively scarcer factors. On the one hand, this would lead to lower wages for unskilled labour in rich countries that have, it is assumed, a greater supply of skilled labour and capital; on the other hand, it would improve the market position and income of highly skilled workers and of capital owners (see Wood 2002). In

fact, unemployment and institutional “distortions” of labour market functioning delay and impede these effects.

- *Capital flows*: the impact of “free”, that is, more liberalised trade will be reinforced by free movement of capital, in particular foreign direct investment (FDI). Together with international trade, which in any case consists increasingly of the intra-firm trade of multinationals, FDI creates transnational production networks that establish parts of the value-added chain at appropriate locations. Capital will generally look for low-cost and, particularly, low-wage locations with a productivity level which allows for lower unit labour costs. Relocating production to these locations will increase labour demand there and reduce it in the richer (?) investor countries.
- *Migration*: free movement of labour achieves the same effect by means of a “symmetrical” flow of human resources from poor countries with abundant labour to rich countries, also usually with surplus labour but paying higher wages. The increased supply of cheap labour will lead to lower wages, particularly for unskilled workers who have to compete with the immigrants. People may also migrate in order to benefit from better social protection (Sinn 2000). Without controls, such migration may overburden social security systems in the richer host countries and take pressure off systems in the poorer countries of origin until an “equilibrium” level – probably quite low – of social protection is reached (see Wildasin 1991).
- *Tax competition* may also force governments to collect more and more taxes from immobile (or less mobile) sources such as labour, consumption and property, while reducing the rates on mobile sources, particularly capital and corporations. This bias in the tax regime might contribute to a less equitable secondary income distribution (that is, after taxes and transfers), particularly in real terms given the regressive impact of higher indirect taxes (see Genschel 2002 and Wildasin 2001).

Taken together, these processes should lead to (or even impose) lower real unit labour costs; indeed, the latter have fallen within the EU from an index value of 107 in 1981 to 93 in 2001 (1991=100) (Europäische Kommission 2001). That does not necessarily imply a decline in real wages. Real wages have generally increased, though this increase sometimes conceals substantial sectoral, regional and employment category differences.

However, each of these potentially detrimental causal relations is disputed by a mass of countervailing empirical evidence (Cline 1996; Wood 1994) and theoretical argument (Krugman 1996) exculpating globalisation and integration (see

Dauderstädt 2002b). Officially registered trade, capital and labour flows, particularly net flows, are often relatively small in comparison to the national income of the countries concerned and cannot explain the effects cited. Most of that exchange occurs among rich countries, above all within the EU, whose wages and regulatory standards do not differ that much. Regarding tax competition, empirical surveys (Ganghoff 2000; Genschel 2002) suggest that this has not occurred on a large scale. Tax authorities have combined the targeting of immobile sources with broadening the tax base; furthermore, immobile factors cannot be overburdened without the risk of pushing them into the shadow economy. Given the increasing need to maintain tax revenues due to high unemployment and aging populations, the relative stability of the tax intake might indicate limits imposed by the fear of tax competition.

Assuming ready adjustment by all workers, enterprises and governments, most negative effects would be transitory and small. Lower prices and/or higher investor incomes should lead to additional demand and so new jobs. However, in the meantime those out of work lose some of their purchasing power and deflationary pressures increase. In the real world of information and transaction costs, hysteresis, "ratchet effects", path dependencies, regulated markets, welfare states and slow learning processes, the effects are more lasting and substantial. Nevertheless, the variety of labour market outcomes among EU member states proves that there is no "iron law" of globalisation leading to unemployment. Even the seemingly more probable trade-off between unemployment and wage inequalities cannot be proven, as the examples of the Netherlands and Denmark show. At least as far as industrial earnings between 1970 and 1992 are concerned, unemployment and inequality were positively correlated (Conceição, Ferreira, and Galbraith 1999). There might, however, be a "trilemma" between wage equality, expansion of the service sector, and fiscal restraint (see Hemerijck 2002).

The main cause of unemployment is not international competition but structural change, that is, deindustrialisation. Productivity in agriculture and manufacturing industry has increased much more rapidly than demand for their products, leading to a decline of employment in those sectors. However, this rapid rise in productivity may be partly due to their character as exposed, traded goods sectors. While the surplus rural population of the 1930s–1960s was largely absorbed by the then still expanding manufacturing sector and is now protected by the Common Agricultural Policy, the industrial labour force surplus has to be employed in the service sector, which does not benefit from high productivity increases. Successful countries have, as a rule, either created jobs in public services financed by taxation

(typically Sweden) or in a low-wage private service sector (typically the USA). The second option in particular will probably lead to greater inequality and, possibly, poverty if redistributive policies do not intervene.

This leads us to the causes of welfare state retrenchment. Again, contrary to widespread assumptions regarding the "malign workings of globalisation", many studies (Iversen 2001; Kitschelt 1999; Pierson 2001; Schwartz 2001; Swank 2002) consider other causes as more probable, such as deindustrialisation, rising unemployment, an aging population, changing family structures, and, most important, institutional legacies and political priorities. Openness to trade is even regarded by many analysts (Rieger and Leibfried 2001; Rodrik 1997; Rodrik 1998) as a cause of welfare state expansion rather than of retrenchment, though even the positive causal relationship has been disputed (Iversen 2001). The welfare state, which commands between 30 and 50% of national income, is a much more dominant influence on the distribution of income and life chances than foreign economic relations. It creates massive vested interests among a large part of the population. In the relatively affluent democracies of Europe, voters will protect these interests and thus the welfare state. So far, a range of political processes have defended the welfare state against new adjustment pressures. This explains the fact that government expenditure in general, and social spending in particular, has barely decreased, despite some retrenchment (see Tables 7 and 8; see also Pochet and Vanhercke 1999 and Pochet 2002).

In much the same way, income distribution depends less on causes related to the world market than on domestic regulatory and redistributive policies that transform the price system, "distort" competition, protect some industries against new entrants, and limit access to certain skills. The structure of the education system, together with special labour market regulations, determines the skill profile of the labour force. Over time, most developed (knowledge rather than industrial) economies have evolved a symbiotic relationship between specific production and welfare regimes that determines wage and employment patterns (see Estevez-Abe, Iversen, and Soskice 2001 and Freeman and Schettkat 2000).

To summarise: Employment, income distribution, and the welfare state might be affected by economic integration and the increasing exposure of national economies to changes in other economies or the world economy. But these external shocks are translated and mitigated by a wide variety of institutions and policies, in short, by the welfare state. Only where political and institutional constellations allowed for radical change, as a rule in residual-liberal, Anglo-Saxon type welfare states with centralised majoritarian democracies where the number of

beneficiaries is relatively small and less powerful, have there been substantial adjustments (see Huber and Stephens 2001 and Swank 2002). However, the integration of Central and Eastern Europe as such, cannot be expected to cause the dreaded effects. The effects of association and enlargement are relatively weak due to the small size of the applicant economies in comparison to the present member states. The overall share of all applicant countries in the EU's foreign trade is about that of Switzerland. Only particular regions, industries and skill groups in Germany and Austria have been or will be significantly affected (Quaisser 2000).

3. SOCIAL EUROPE AT BAY: THE EVIDENCE SO FAR

Over the last few decades, unemployment, poverty and inequality have generally increased in Europe, although there have been periods (notably the late 1980s) and countries (for example, the Netherlands and Denmark) where social conditions have improved or at least not deteriorated. For many of these problems, the presumed causes are complex and manifold: the decline of global growth rates since 1972; the end of the Bretton-Woods system; the globalisation of international capital markets, investment, and production; the rise of low-wage competitors in the former Third World; deindustrialisation; technological and demographic changes; and – not least – the perverse effects of well developed welfare states themselves. European integration as such and the association of the post-communist applicant countries have arguably contributed to those developments. The introduction of the Single Market and the euro has changed the regulatory and competitive environment of European economies.

Unemployment rates have increased substantially since the 1970s (see Table 4). But while some countries have managed to halt and even reverse the rise (notably the Netherlands, Ireland and the UK), others could only achieve partial success that still leaves unemployment rates much higher than in the 1970s (for example, Sweden, Germany, France and Spain). While employment rates have increased in many countries the share of "normal" work arrangements has decreased in most countries, Greece and Denmark being the exceptions (Hoffmann and Walwei 2002).

Table 4: Unemployment in Europe, 1960–2001 (%)

Year	1960	1961–70	1971–80	1981–90	1991–2000	2001
Belgium	2.3	1.9	4.6	9.7	8.7	6.5
Denmark	1.3	1.1	3.7	7.4	7.1	4.6
Germany	1.0	0.7	2.2	6.0	8.1	7.8
Greece	5.6	5.0	2.2	6.4	9.5	10.5
Spain	2.4	2.5	5.4	18.5	19.6	12.8
France	1.4	1.8	4.1	9.2	11.3	8.5
Ireland	5.8	5.4	7.7	14.7	11.1	3.8
Italy	5.7	4.8	6.1	8.7	10.7	9.8
Luxembourg	0	0	0.6	2.5	2.5	2.0
Netherlands	0.7	0.9	4.4	8.5	5.4	2.6
Austria	2.5	1.9	1.6	3.4	3.9	3.4
Portugal	1.7	2.5	5.1	7.3	5.6	4.6
Finland	1.8	2.4	4.1	4.7	12.5	9.1
Sweden	1.7	1.7	2.1	2.6	7.7	5.2
UK	1.4	1.7	3.8	9.8	8.1	5.3
EU average	2.3	2.2	4.0	9.0	9.9	7.7

Source: Eurostat.

The share of wages in GDP has declined in almost all member states since the first oil shock (see Table 5). The decline was most pronounced in Ireland, strong in the Netherlands and Portugal, and rather modest in Luxembourg and – surprisingly – the UK. That does not mean that real wages declined. With the exception of some years they grew by an average rate of 1% per year.

Table 5: Share of wages in Europe, 1960–2001 (% of GDP)

Year	1960	1961–70	1971–80	1981–90	1991–2000	2001
Belgium	69	69.5	74.8	73.9	72.4	70.5
Denmark	67.7	71.5	74.4	72.7	67.9	65.4
Germany	70.6	71.6	73.7	70.9	67.9	66.0
Greece	101.4	86.1	70.7	74.0	67.3	67.2
Spain	70.7	73.5	75.1	70.5	68.5	67.1
France	74.1	74.2	75.5	74.5	69.5	68.9
Ireland	78.0	77.9	75.9	71.3	62.0	53.9
Italy	76.6	75.0	76.6	74.3	70.3	66.8
Luxembourg	56.3	57.7	65.5	66.5	64.8	62.7
Netherlands	63.4	69.4	74.8	68.1	66.0	65.3
Austria	82.2	82.5	83.4	81.8	76.5	72.5
Portugal	73.7	72.9	87.3	79.6	76.5	72.5
Finland	73.7	73.1	72.5	71.9	66.1	59.8
Sweden	69.4	72.3	74.1	70.5	68.7	71.4
UK	71.7	73.0	73.7	73.2	73.3	73.6
EU average	72.5	73.2	74.9	72.8	69.7	68.1

Source: Eurostat.

Since wage figures include the incomes of both workers and top managers the share of wages does not reflect changes in wage differentials. Without further information on other potential sources of income (for example, from capital or transfers) it is an open question whether the share of the total household income of wage earner households has declined to the same degree. Still, the coincidence observed in several countries of declining wage shares with rising unemployment raises questions concerning the strategy of creating employment through wage restraint (Flassbeck 2000).

It is therefore better to look directly at the development of income distribution. EU Gini coefficients present (Table 6) a small increase in the late 1990s, using the data of the Luxembourg Income Study. However, other empirical data (ECHP) show a decrease between 1994 and 1997. National data covering the period 1984–97 show an increase in inequality (measured by earnings differentials) in some countries (Austria, UK), but also improvements (for example, in Germany, Denmark, Belgium) and some fluctuations, as in Italy and Sweden, that do not confirm any long-term trends (see Scharpf and Schmidt 2000). An older study on the relation between wage differentials and integration shows only inconclusive or weak results with some convergence of wage levels between member states when measured in terms of purchasing power parity (van Mourik 1994).

Table 6: Income distribution in the European Union (Gini coefficients)

Country	Gini LIS													Gini ECHP	
Year	1984	1985	1986	1987	1988	1989	1990	1991	1992	1994	1995	1997		1994	1997
Belgium		22.7	22.7	22.7	23.2	23.2	23.2	23.2	22.4	22.4	22.4	25.5		36.0	34.0
Denmark				25.4	25.4	25.4	25.4	25.4	23.6	23.6	26.3	25.7		23.0	21.0
Germany	24.9	24.9	24.9	24.9	24.9	24.7	24.7	24.7	24.7	26.1	26.1	26.1		31.0	29.0
Greece														37.0	35.0
Spain							30.3	30.3	30.3	30.3	30.3	30.3		34.0	35.0
France	29.8	29.8	29.8	29.8	29.8	28.7	28.7	28.7	28.7	28.8	28.8	28.8		29.0	30.0
Ireland				32.8	32.8	32.8	32.8	32.8	32.8	32.8	32.8	32.8		33.0	33.0
Italy			30.6	30.6	30.6	30.6	30.6	28.9	28.9	28.9	34.2	34.2		33.0	32.0
Luxembourg		23.7	23.7	23.7	23.7	23.7	23.7	24.0	24.0	23.5	23.5	23.5			
Netherlands				25.6	25.6	25.6	25.6	26.6	26.6	25.3	25.3	25.3		27.0	28.0
Austria				22.7	22.7	22.7	22.7	22.7	22.7	22.7	27.7	27.7			25.0
Portugal														39.0	38.0
Finland				20.9	20.9	20.9	20.9	21.0	21.0	21.0	22.6	22.6			23.0
Sweden				21.8	21.8	21.8	21.8	21.8	22.9	22.9	22.1	22.1			23.0
UK			30.3	30.3	30.3	30.3	30.3	33.6	33.6	33.6	34.4	34.4		32.0	34.0
EU-Average	27.4	25.3	27.0	25.9	26.0	25.9	26.2	26.4	26.3	26.3	27.4	27.6		32.2	30.0

Sources: Luxembourg Income Study (bold figures only – other figures are reproduced to obtain estimated EU averages), and EU Commission for ECHP.

Household surveys on social exclusion show that the S80/S20 ratio, indicating the relation between the income of the poorest 20% of the population to that of the richest 20%, ranges from 3.1 (Finland) and 3.2 (Denmark) to 7.2 in Portugal, with an EU average of 5.0 (Eurostat 2000). From 1994 to 1998 the EU average increased from 5 to 5.4 (Eurostat and European Commission 2002). German national data show a steady rise in inequality since 1973. Inequality has also increased in both West and East Germany since unification, although unification led to more equality within the unified Germany between 1993 and 1998 thanks to the convergence of income between East and West Germany (BMAS 2001).

Inequality would be much higher without the correcting influence of redistributive and social policies. Social expenditure as a percentage of GDP increased significantly in most countries between 1960 and 1980, and even between 1980 and 2000, due to aging populations and higher unemployment, it continued to rise, especially in the poorer Southern European countries – including Italy – as well as in France and Finland. As a consequence, the EU average continued to increase as well, in spite of relatively stable or even falling shares in some countries (Germany, Austria, Netherlands) (see Table 7).

Table 7: GDP share of social benefits in Europe, 1960–99 (%)

Year	1960	1969	1979	1989	1999
Austria	7.57	11.21	15.51	14.71	15.71
Belgium	11.35	13.70	20.85	20.62	21.16
Denmark	6.17	8.68	14.96	17.81	16.92
Germany	12.83	13.53	16.95	16.19	16.70
Greece	4.91	7.68	8.57	15.49	15.54
Spain	3.65	6.38	11.70	13.94	15.09
France	12.74	14.82	18.63	21.09	23.55
Ireland	4.07	7.76	11.64	14.62	13.64
Italy	9.50	11.93	14.08	17.61	19.70
Netherlands	7.17	12.92	19.93	18.26	17.75
Portugal	2.26	2.50	7.03	8.25	12.50
Finland	5.08	7.08	9.08	14.36	19.54
Sweden	6.09	8.19	14.28	16.29	15.82
UK	6.06	8.35	10.55	10.47	13.12
EU average	7.17	9.70	13.75	15.53	16.91

Source: Peter A. Cornelisse and Kees P. Goudswaard, "On the convergence of social protection systems in the European Union," *International Social Security Review*, **55**, No. 3 (2002), p. 10.

Since 1980, in the context of tighter fiscal policies and increasing demands, most governments have wanted to reduce social spending and/or improve its effectiveness. Some – such as Austria, Germany, the Netherlands, Sweden and the UK – succeeded partially and temporarily.

During the 1980s and 1990s, conservative governments in Britain, the United States, and the other Anglo democracies have reduced the generosity of benefits, tightened program eligibility, implemented cost controls on service delivery, and encouraged privatisation of some social insurance and many social services. Neoliberal policy changes have not been confined to these right-of-center governments; Swedish, German, and other Western European governments of all ideological complexions have on occasion reduced pension and other social insurance benefits, limited benefit indexation, and restricted eligibility for unemployment compensation and social assistance. They have also imposed budget caps, user co-payments, and other cost-control measures for health and social services. Moreover, these efforts to restrain the welfare state have occurred at a time of rising need for social protection. (Swank 2002: 1–2)

A look at replacement rates (see Table 8) confirms the retrenchment efforts in Belgium, Germany, the Netherlands, the UK and Sweden, while at the same time

reflecting the continuous rise of social protection in the “less developed” welfare states, such as Greece, Italy, Portugal, and Spain, or specific reform approaches, as in Denmark, that have increased replacement rates substantially while reducing job protection, so making labour markets more flexible.

Table 8: Replacement rates of unemployment benefits in Europe*

Year	1979	1989	1997
Austria	29.3	29.3	31.0
Belgium	46.3	42.1	39.8
Denmark	49.8	51.5	66.4
Germany	29.9	27.6	27.1
Greece	6.7	9.2	22.3
Spain	21.4	33.8	31.7
France	24.0	36.9	36.5
Ireland	28.1	26.9	30.0
Italy	1.0	2.7	18.3
Netherlands	47.5	53.2	46.9
Portugal	7.4	31.7	33.4
Finland	26.5	33.9	35.5
Sweden	25.1	28.9	27.6
UK	23.8	17.6	18.8
<i>EU average</i>	<i>26.2</i>	<i>30.4</i>	<i>33.2</i>

* The replacement rate refers to “benefits before tax as a percentage of previous earnings before tax as defined by the legislated entitlements averaged across the circumstances in which the unemployed person may find himself”.

Source: Peter A. Cornelisse and Kees P. Goudswaard, “On the convergence of social protection systems in the European Union”, *International Social Security Review*, **55**, No. 3 (2002), p. 8.

Finally, the developments described above might have contributed to an increase in Euroscepticism (see Table 9) since the late 1980s as European citizens started to blame “Brussels” for all major ills, in part because their national politicians were doing the same thing. It is not clear whether the decline in support for the EU is a result of the social “crisis”, namely rising unemployment, welfare state retrenchment, and so on. However, it has coincided with the economic recession linked to the fiscal consolidation required by the Maastricht treaty (see Pochet 2002).

Table 9: Support for EU membership

Member states	1983	1990	1996	2000
EU membership “a good thing”	54	72	47	50
EU membership benefits my country	52	59	44	47
Applicant countries	–	1992	1997	2001
Support for accession	–	82	48	65

Source: Eurobarometer.

In the applicant countries of Central and Eastern Europe liberalisation and opening up to the world market have played a major role in the overall transition to a market economy. This has been accompanied by a strong increase in unemployment, inequality and poverty, although after 1995 poverty and, in some countries, unemployment fell somewhat (Milanovic 1998). The social crisis largely continued even after the post-transition recession had ended. Of course, there has been significant diversity between the countries of the region, with fast reformers (Central Europe) usually performing better than slow reformers (Bulgaria, Romania). Disappointment with transition and integration led, among other things, to a decline in public approval of EU accession in the late 1990s, although it has recovered recently (see Table 9).

To summarise: Although there has always been much diversity between member states, the general trend has been one of high unemployment, decreasing wage shares, mostly increasing inequality and welfare state retrenchment. And those trends seem to have become more severe during the 1990s when the EU opened its economies towards the associated transition countries. But is not European integration rather than enlargement to be blamed for this dire state of social Europe?

4. THE IMPACT OF EU INTEGRATION ON THE EUROPEAN SOCIAL MODEL

European integration is a complex process that combines market liberalisation (including enlargement) with policy harmonisation. In the first aspect, it resembles “globalisation”, with more limited scope (member states plus perhaps the associate members) but with a much more radical liberalisation through the Single Market, that has abolished not only tariffs and quotas, but also non-tariff barriers,

fiscal and technical barriers, and similar measures, such as subsidies. In this way the EU is trying to promote freedom of movement of goods and services, workers, and capital. Moreover, monetary union has levelled the playing field even more by abolishing national currencies and exchange rates, so exposing national economies fully to external shocks. These developments have been called “negative integration” – by Fritz Scharpf and Wolfgang Streeck, among others – as they remove obstacles to the free play of markets (that is, for consumers, investors, enterprises, and so on). Regarding the second aspect – which might be called “positive integration” – it, too, constrains national policies by setting minimum standards, requiring compliance with EU rules and regulations, and subjecting national decisions to EU control, peer review, benchmarking, and/or the open method of coordination (OMC). Let us consider first the effect of market integration.

The third major cause to be considered is European integration through common policies rather than the abovementioned international flows and market processes. The EU has adopted a large body of community law, the *acquis communautaire*, which regulates the internal market, monetary union, and a wide range of other policies. Starting from our assumption that domestic institutions and policies rather than international competition determine social outcomes, the impact of integration on these institutions and policies could be of major importance. National economic and social policy-making is substantially constrained by EU membership. Although the EU certainly does not intend to aggravate the social situation in the member states, its structures and policies might well have that effect, at least indirectly.

- **Single market:** many effects discussed above regarding international economic interaction are exacerbated by the Single Market. The Single Market lowers or eliminates the barriers to trade, capital and labour movements and thus intensifies the competition between locations. However, the EU regulations covering the Single Market prohibit seeking particular types of competitive advantage through lower social protection (for example, regarding health and safety at the workplace), lower environmental standards, or poorer product quality.
- **Monetary union:** the common currency prevents the kind of exchange rate manipulation previously used to correct inflation and productivity differentials between member states. A loss of competitiveness cannot now be corrected by devaluation (thus protecting jobs) either, nor can the income level of successful, but poorer countries converge with the rich countries through the appreciation of their currency. Exchange rate changes distribute adjustment costs in a different way from protectionism through tariffs, subsidies or direct income adjust-

ments. They affect other people and allow for some postponement of real adjustment even when, in the end, there is no escape from its painful effects (see Podkaminer 2001 and Orlowsky 2001). The specific policies adopted by the EU through the Maastricht Treaty constrain the fiscal policies of the member states, too (see Genschel 2002). The Stability and Growth Pact limits public deficits and debt, and so prevents or hinders employment policies using Keynesian demand management (see Heise 2002). It may also increase the pressure for budget consolidation, leading to lower social expenditure, as for instance in Germany and France in 2002/2003. According to the statutory bias towards stability, the European Central Bank (ECB) and ECOFIN have already strongly criticised some member states, notably Ireland, because of their above average inflation rate. Such a higher rate of inflation is needed for catch-up growth to reduce income gaps within the currency area (see Dauderstädt and Witte 2001).

- *Competition policy regarding public services:* EU competition policy in general and the Lisbon strategy in particular aim at an EU-wide market for services which – at least in the long run – might include public services that are essential for social welfare. Energy, transport and telecommunications are already affected by stronger domestic and European competition, which has been causing lay-offs in these sectors. Health and education are subject to the most redistributive policies in many countries. The market orientation and privatisation of such services could put low-income users/consumers at a disadvantage (see Jacobi and Kowalski 2002).
- *Economic and social policy coordination and harmonisation:* the EEC Treaty of Rome (1957) required some coordination and cooperation regarding social policy (Art.117-122). Acknowledging the competitive effect of many national policies, the EU has introduced regulations to prevent “unfair” competition. In some cases, such regulation might lead to higher standards in previously less regulated countries; but it could also cause a “race to the bottom”, albeit a bottom defined by common minimum standards. Although these standards might be lower than some current national ones, they are high (e.g. four weeks of paid holiday) in comparison to other countries that are not member states of the EU. The Amsterdam Treaty, as well as the last couple of EU summits (in particular Lisbon, but also the Luxembourg, Cardiff and Cologne processes aimed at reforming social and economic policies), strengthened the EU’s role in employment and social policy. Although most competences remained national, the EU will use processes such as the “open method of coordination”, “bench-marking”,

the supervising of national action plans, the setting of targets, and so on, to promote best practice and reforms (see Hemerijk 2002).

Of the abovementioned processes and policies, enlargement, the Single Market, and, to some extent, Monetary Union work in the same way as the market integration dealt with in section 2. The Single Market has removed trade barriers and thus lowered transaction costs. Monetary Union has also reduced the risk of international transactions, in particular exchange rate risks. The latter might be even more important for transnational investment and production decisions than for trade. Taken together, both arrangements will accelerate the creation and deepening of transeuropean production networks whose internal supply-chains are represented as international trade.

As enlargement and Monetary Union reinforce competitive pressures in Europe, EU supranational policies and policy coordination add further pressure and constrain national reactions and adjustment options. The *Maastricht Treaty and the Stability and Growth Pact* not only level the playing field by removing exchange rate risks, but also limit the capacity of governments to deal with the consequences. But are these constraints really harmful, particularly in relation to social justice? There are at least two different views (for more details see Heise 2002 and Pochet 2002):

- The proponents of the Stability and Growth Pact hope that balanced budgets will lower interest rates and thus induce private investment that, in turn, will lead to stronger growth and employment. They do not believe in employment creation through deficit spending because households and enterprises will increase their savings (and reduce consumption and investment) in anticipation of higher taxes and/or in reaction to higher real interest rates. This conservative, neo-classical view would further expect that wage restraint (wage increases below productivity) would alleviate investment and create new jobs.
- The opponents see a bias towards stability that destroys jobs. They assume a Keynesian overhang of savings that private investment will not absorb. Wage restraint would only reduce demand further. A shift from capital-intensive to labour-intensive production can also not be taken for granted. As lower wages reduce all costs and prices, they do so for capital goods, too. Cheaper investment goods will reduce the expected cost advantage of more labour-intensive types of production.

Actual development over recent years supports the view of the opponents rather than the proponents but interpretation can obviously only be uncertain. The true indicator of success must be long-term growth in output and employment.

The national long-term success stories (Netherlands, Denmark, UK, Sweden, Austria, Ireland, Portugal) are not conclusive. Although it is striking that three of these countries did not join Euroland, others have done so and have managed to achieve low unemployment. Ireland and Portugal might be discounted as high-growth peripheral countries benefiting from special circumstances (large foreign direct investment, falling interest rates, EU funds), but Austria and the Netherlands have adopted different strategies with strong employment growth in the latter and stable employment in the former.

Competition policy will possibly affect the welfare regimes in member states more profoundly. Competition policy determines structures of relative prices in the long run. Falling prices in more competitive sectors usually imply lower incomes, or at least stronger pressure on wages and profits which push productivity growth. In the end, more contested markets might be a source of unemployment and inequality, at least in the short run (see Schwartz 2001). In the long run, higher real incomes can shift demand towards new sectors and spurn growth. Different EU countries rely to different degrees on public services in order to ensure public welfare, particularly as regards insurance, health and education. In all sectors, clients/consumers rely increasingly on complementary private services and products. Those markets are already contested across Europe, as the corresponding public services will be, too, to the extent that they are privatised and deregulated. On the supply side, this can imply poorer working conditions and lower wages; on the user side, temporal and spatial coverage can also suffer with stronger regional inequalities and lacking surge capacities to cope with larger-scale emergencies such as epidemics or terrorist attacks. These "market failures" have to be corrected by regulation which in turn increases costs and puts the providers at a competitive disadvantage. If prices increase, poor clients will no longer be able to enjoy the full range of services.

Since these welfare-related policies are so sensitive they still belong overwhelmingly in the realm of national competences. But some European competences have always been subject to the Single Market. However, the coordination methods used by the EU provide for a strong role for the social partners (Art. 139) and the member states (open method of coordination or OMC). The OMC is theoretically open to civil-society involvement within the member states when targets are determined, quantitative benchmarks defined, National Plans of Action designed, and compliance checked. Generally, the EU has strengthened its role in the field of social and labour market policy, and this EU involvement has promoted social security and the participation of social partners, in particular workers. In the

eyes of critics, these measures have increased costs and reduced flexibility. Their extension to the poorer new member states of Central and Eastern Europe is intended to protect the rigid labour markets and production systems of the old EU against competition from the candidate countries (Belke and Hebler 2002). In the eyes of trade unions and other sceptics (Streeck 1995), these policies constitute too low a barrier against the dynamic of a "race to the bottom" promoted by market integration. An additional dimension is the harmonisation of social security systems in the context of the free movement of workers, which should entail transferability of social entitlements.

The most important redistributive EU policies are the Common Agricultural Policy (CAP) and cohesion policy (that is, structural, regional and cohesion funds) that together account for about 80% of the EU budget. In the end, CAP has benefited mostly the richest and biggest farmers, ensured high prices and not prevented poor quality. Cohesion policy has not been able to prevent increasing regional disparities. Less divergence between poor and rich member states, in itself more due to the effects of Monetary Union than EU regional policy, has been accompanied by stronger disparities within member states (Dauderstädt/Witte 2001).

5. DIFFERENT WELFARE STATES FACING ECONOMIC INTEGRATION

National strategies are often less conscious choices between different options than the consequences of past choices, made under different circumstances, which exert a "ratchet effect" (Huber and Stephens 2001) through specific institutional arrangements and political coalitions. Regarding social justice, employment and inequality, the most important past choices concern the type of welfare state and production regimes (see Hall and Soskice 2001; Huber and Stephens 2001). They have led to different exchange rate and monetary policy regimes, distributions of productivity gains, labour market regimes, industrial relations, mixes of public and private supply of social services, and financing models for the welfare state. Add to these differences the more basic ones of structure of trade and production.

The socio-economic outcome is the result of a complex interaction of integration processes and these national adjustment regimes. The external causes (globalisation, European integration, enlargement) create challenges that are different in the various countries because of different economic and social structures, policy

legacies and power constellations. Oil price shocks affect Austria quite differently from oil-producing UK or nuclear France. The challenge of low-wage competition affects the countries with substantial tradable sectors if they are not exclusively focused on high-tech, high-price segments. Disinflationary policies are harder to swallow in countries like Greece or Italy than in traditionally hard-currency, tight-money countries such as Germany and Austria. Some problems are exacerbated by domestic developments as in the case of German unification which upset traditional West German policies completely.

Regarding social justice and inclusion, the most important structural differences between EU member states are their different welfare states. Following Esping-Andersen and others (Esping-Andersen 1990; Merkel 2001; Scharpf and Schmidt 2000), one usually differentiates between three types of welfare state: the Scandinavian or universalistic, the continental, and the Anglo-Saxon or marginal. They have different traditions of coverage, entitlement, funding and organisation. In the Scandinavian system, all citizens are entitled to coverage, social protection is financed by taxation, social services are run by the state and the participation of women in the labour market is high. In the continental system, benefits are linked to employment and families, and financed by contributions based on wages. The Anglo-Saxon system provides protection only for the poor and expects the rest to look after themselves by using market-oriented services. These systems have been variously affected by the challenges of globalisation and integration (see Scharpf and Schmidt 2000).

■ *Employment and labour market policy*: hardly any member state was able to break the decline in employment in the exposed tradable sector, although the rates of decline varied – with the Netherlands and Denmark in relatively favourable positions (see Hoffmann and Walwei 2002; Walwei and Werner 2002). The Netherlands managed to reduce unemployment to a large extent by keeping wage rises under control (Wassenaar agreement) and by expanding part-time work. In common with Germany and France, it also resorted to early retirement in order to reduce the labour supply. France additionally reduced the working week to 35 hours. High employment in public services helped to keep unemployment relatively low in Sweden and Denmark. Making labour markets flexible fostered the creation of new jobs in the service sector, particularly in the UK. Unemployment benefits are tied to readiness to enter additional training schemes and/or accept jobs which are less well paid or located further away. There are trade-offs between income and employment and between employment and social protection. Getting people out of the labour market by means

of generous social policies makes it possible for the remaining active workers to demand high wages. High wages require high productivity but the number of such jobs might be low. Inversely, efforts to get more people from welfare to work might entail slower productivity growth.

- *Social policy:* Most countries tightened eligibility criteria and reduced benefit levels for welfare payments. By doing this, they intended also to increase the gap between low wages and welfare benefits and create stronger incentives to accept low-paid jobs. Germany subsidised the pension system in order to limit social security contributions and thus non-wage labour costs. Pension reforms started to tighten rules on eligibility for disability pensions, as well as on early retirement. The retirement age for women has been increased with a view to equalisation with the male retirement age. Germany introduced a second pillar of state-subsidised capital-funded insurance. Most countries introduced measures to control health expenditure.
- *Tax and fiscal policy:* Tax systems still vary substantially in Europe. Total tax revenue (as a percentage of GDP) has remained relatively stable although total state expenditure declined from 51.4% in 1995 to 45.8% in 2000. This reflects lower budget deficits in preparation for Monetary Union. Some countries introduced energy taxes, for example, Germany. Top rates on personal income and statutory corporate tax rates were lowered in many countries. The tax systems of Central and Eastern Europe add still more diversity, although the composition of their revenue sources is already relatively similar to that of the EU (see Table 10).

Table 10: Structure of state revenues, 2000 (% of GDP)

Country (EU-15)	Current revenues	Indirect taxes	Direct taxes	Social security contributions	Other current revenue
Belgium	49.0	13.0	17.5	15.9	2.7
Denmark	56.2	17.3	29.6	3.5	5.8
Germany	45.8	12.3	12.0	18.5	3.0
Greece	41.1	14.8	8.7	13.8	4.1
Spain	38.8	11.9	10.3	13.1	3.5
France	48.9	15.5	11.9	18.4	3.7
Ireland	34.7	13.9	13.3	5.7	2.5
Italy	45.4	15.3	14.6	12.6	3.2
Luxemburg	45.3	13.3	16.4	11.5	4.9
Netherlands	43.4	12.2	11.8	16.9	4.7
Austria	47.6	15.4	12.7	16.9	3.4
Portugal	44.3	16.0	10.8	12.6	4.5
Finland	50.9	14.0	18.8	13.0	5.7
Sweden	57.5	14.8	21.3	16.6	5.6
Great Britain	39.2	13.7	16.2	7.5	2.0
EU-15	44.6	13.8	13.8	14.4	3.3
Country (Central and Eastern Europe)	Total current revenue and grants	Indirect taxes and customs duties	Taxes on income, profits and capital gains	Social security contributions	Non-tax revenue
Bulgaria	42.1	13.8	6.9	11.2	8.2
Czech Republic	39.4	12.6	8.9	14.7	2.5
Estonia	35.4	13.0	8.7	9.9	3.3
Hungary	45.0	15.7	9.4	12.8	5.6
Latvia	35.0	11.9	7.7	10.7	3.0
Lithuania*	31.5	12.5	9.3	6.8	1.7
Poland*	40.3	13.2	7.9	11.3	6.5
Romania	31.4	11.4	5.9	10.9	1.9
Slovakia	36.2	13.0	7.6	11.2	3.7
Slovenia	42.5	15.9	7.7	13.7	2.4
CEE-10	37.9	13.3	8.0	11.3	3.9

* 1999; bold figures indicate max and min values in each column.

Source: EU: Eurostat; CEE: UN-ECE, *Economic Survey of Europe*, No. 1 (2002), p. 61.

In the end, the various member states weathered the challenges of the 1990s, but with very different outcomes. Even an apparent failure with regard to unemployment, such as Germany, looks quite different if one focuses on equality, which is quite high in Germany thanks to low wage differentials. In the 1990s, low unemployment seemed to be more difficult to achieve without sacrificing equality, although redistributive measures such as earned income tax credits, negative income tax, lower rates of social security contributions or wage subsidies can improve the lot of the "working poor". Politically, however, the search for scapegoats is now on. Governments unable to implement reforms tend to blame globalisation, global recession or Brussels for negative developments. While there is always at least an element of truth in this, the "whole truth" must include national public policies, not to mention societal attitudes, preferences and blocking tactics.

Very often, the real and basic distributional conflicts are quite simple. Higher social or environmental standards, earlier or easier retirement, generous leave rules and other "social goodies" reduce real national income by reducing either productivity or total labour input. These losses can be compensated by productivity growth due to the same processes (for example, firing or retiring the least productive workers) or other factors. But, all things being equal, somebody has to accept the loss. These losses can be allocated through inflationary processes, devaluation, public distribution of subsidies and taxes or direct nominal income changes. European integration prevents some of these types of adjustment. Within Euroland, inflation, devaluation and subsidies to producers are no longer an option. The remaining adjustment mechanisms are direct changes in nominal income, usually mitigated by redistributive policies (progressive tax regimes and social transfers).

6. PROSPECTS: A TRIPLE TRANSFORMATION OF THE EUROPEAN SOCIAL MODEL

The currency union in combination with the Single Market has created a "level playing field" within Europe that will be extended to Central and Eastern Europe. But on this level playing field very different national players meet with different levels of income, endowments, preferences and strategies. With the accession of post-communist countries, these differences will substantially increase. Their per-capita income is lower, their social aspirations have been formed by decades of imposed egalitarianism (Delhey 2001), and their social and tax systems have only

recently been reformed to cope with the new market economy, transition and integration. The resulting competition can be healthy for the purpose of improving national solutions and finding innovative responses to common challenges. But it could also turn out to be political dynamite when important social groups perceive that their interests are being endangered by European policies or rules. The rise of right-wing populism in some elections in Europe (Austria, the Netherlands, Denmark), with its attendant Euroscepticism, is one example of such a trend that is even more worrying because it has affected countries with relatively successful employment and social policies (see Ehrke 2002).

On the national level, the result of a more competitive environment and limited national sovereignty could be a convergence of economic and social policies. Up to now, convergence of social protection levels has been weak and mainly due to the expansion of social security in the poorer countries (Cornelisse and Goudswaard 2002). The traditional diversity of European welfare states may no longer be viable. The continental system could be forced to shift to tax-based social security in order to reduce labour costs. Scandinavian systems might be forced to lower the share of the state or at least to open up the system of public services to competition. Harmonising social policies would also ease the free movement of labour while at the same time discouraging migration in search of the best welfare-benefit deal. Pension systems will increasingly be integrated in euro capital markets. Obviously, such adjustments will be strongly rejected by national constituencies which fear (possibly with justification) income or entitlement losses. The political economy of social policy reform in welfare democracies makes radical changes very difficult, although they might be easier in some politico-institutional environments (for example, Westminster-style systems) than in others.

Given the fact that social justice is a highly contentious concept, particularly in an international context where winners and losers in the same game might be distributed across different nations – at least in appearance – politics play a decisive role. The current constitutional debate (Convention) in the EU is to a large extent concerned with the power and legitimacy of the institutions, procedures and decisions that affect the distribution of wealth, income and life chances within the enlarged union. The new members of Central and Eastern Europe will add a new dimension to the already complicated mix of welfare and production regimes in the EU. As already mentioned, they are at the same time more egalitarian in their aspirations (Delhey 1999) and economically and administratively less able to fulfil the expectations of their people. Hopes and fears in the applicant countries regarding the impact of EU membership on welfare and distribution are running high.

The EU is trying to ensure the compliance of the applicant countries by using involvement (political dialogue, participation in the Convention) and aid to build capacities (PHARE and other programmes), as well as monitoring (screening) and sanctions (aid cuts, delayed accession).

In the end, politics will be decisive. There will not only be real winners and losers, but also those who consider themselves as belonging to one group or the other. Parties, media, and societal organisations shape those perceptions and organise the respective interests. The structure of political systems (electoral law, division of powers, centralism, and so on) will then determine which interests eventually shape political decisions and the design and outcome of policies. As past policies have already created powerful vested interests within the different types of welfare state, it is not probable that a common model will emerge through convergence (see Ebbinghaus 1999; Swank 2002). Continued and increasing diversity requires flexible institutions and procedures of integration in order to avoid widespread discontent and the revival of nationalism.

The ESM will face a triple transformation: The first transformation is already well under way. It is the "Self-Transformation of the European Social Model(s)" as Anton Hemerijck (2002) calls it. It is a reaction to deindustrialisation, ageing and changing gender roles. The second transformation has already been provoked by the challenges of European integration, in particular Monetary Union. It is co-ordinated on the European level, mostly through the open method of coordination that allows a substantial degree of national diversity. The third transformation is the one brought about by enlargement. It will reinforce the first two transformations by increasing, though but slightly, the pressures driving them. More important, it will extend the ESM to the East where it will be adapted to the specific problems and political preferences of transition economies and societies. Enlargement should also cause some serious evaluation and redesign of the redistributive policies on the European level such as agricultural and cohesion policy. To give an answer to our original question: Enlargement will be the extension rather than the end of the ESM, but of a transformed ESM.

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LABOUR RELATIONS IN CENTRAL AND EASTERN EUROPE AND THE EUROPEAN SOCIAL MODEL

1. INTRODUCTION

The unprecedented dynamic process of economic and political transformation in the countries of central and eastern Europe since 1989/90 is well known and impressive but raises the question of how basic conditions and perspectives in labour relations have also changed. Developing efficient labour relations is as much an inherent part of a system change as it is a condition for successful transformation as they are a fundamental constituent of civil society and provide essential guidance for the settlement of social conflict, consensus formation, economic modernisation and the legitimisation and stabilisation of democracy. The nature and quality of labour relations determine the living and working conditions of most working people and thus of society as a whole. Labour relations and wage-bargaining systems, brought together by EU jargon under the label of social dialogue, determine not just job- and pay-related issues, but also overall economic development, and they thus form part of the 'convergence' which plays a central role in the run-up to EU accession.

A comparison of structural developments in labour relations in the eight Central and Eastern European Countries (CEEC) which will join the EU in 2004 shows that despite a transformation geared towards western European models, labour relations in these countries (Estonia, Lithuania, Latvia, Poland, Czech Republic, Slovak Republic, Hungary and Slovenia) are developing along nationally characteristic lines and are showing considerable variations. Compared to the current EU Member States, these countries have their own evolutionary 'transitional-society' type of labour relations, which will considerably increase the diversity of structures and policies in the enlarged EU and will thus present considerable challenges for future transnational labour relations.

2. THE EIGHT CEE CANDIDATE COUNTRIES: A COMPARISON

2.1. Major changes in interest representation in firms

At the primary enterprise level there are clear differences in industrial relations in all the eight countries, even though they are all facing similar problems. Trade unions and employers alike are encountering the following structural trends and difficulties here:

- The trade unions are losing importance and local presence as a result of drastic reductions in membership following privatisation, the establishment of small and medium-sized enterprises (SMEs) and increased pressure from employers. The concept of union protection often no longer applies in the majority of businesses. Union pluralism is also making the effective representation of interests more difficult in some countries, particularly Lithuania, Poland and Hungary, and recently more and more also in Slovenia.
- Linked to this, the proportion of individual workers who are bound by collective agreements is, in some cases, extremely low because branch collective agreements are, with few exceptions, largely non-existent. They often have only individual employment contracts, with conditions laid down by the employer or a company wage agreement, where there is a company trade union. In any event, the number covered by collective agreements is higher in those candidate countries – and here the situation is similar to the EU – where works councils or a strong union representation monitor the implementation of wage agreements or can apply them through more detailed requirements in their own company (Slovenia in particular and Slovakia and Hungary to a lesser extent – see the figures in Kohl/Platzer 2003:175).
- In many cases managers still adhere to the philosophy of the management systems they have inherited. Nevertheless, here too there is a wide range of behaviour patterns, from neo-patriarchalism to modern participation-orientated approaches, the latter particularly in joint ventures and multinational companies. Good-quality labour relations are only just beginning to be seen as an asset that can promote productivity and are thus economically relevant. The nascent employers' organisations only occasionally feel the need and feel able to take special measures to encourage modern personnel management geared to greater cooperation.
- In this situation the stronger rights that workers have inherited protecting them against dismissal have helped to shield them during the restructuring phase – although less effectively during the more recent liberalisation and glo-

balisation (under pressure from the World Bank and the IMF). The result has been increased uncertainty, expanding union- and representation-free zones in the business landscape and the loss of union pressure, solidarity and effectiveness.

- In addition, the institution of the European Works Councils (EWCs) is a new experience, with their specific form of social dialogue in multinational companies requiring effective cooperation and coherence from the workers, but also with a reciprocal effect on management behaviour (Lecher et al. 2001; Kerckhofs 2003). They are one of the main factors generating fresh impetus among workers too in the CEE countries.

The transformation-driven patterns of development in labour relations at the primary enterprise level in the various countries can be classified as follows on the basis of how they have actually changed (for further details see Kohl 2002).

Defensive continuation of interest representation structures, resulting in a representation deficit: During the process of transformation a number of countries – such as the Baltic States after independence – have relied primarily on the continuation of existing union-based representation structures in enterprises. In extreme cases existing institutional forms of representation have been abolished in favour of a statutory monopoly for company union representation, sanctioned under pressure from the unions (such as in Poland). But even where non-union representation bodies are theoretically possible, they have hardly been able to establish a foothold.

As a result, interest representation structures in enterprises have, in some cases, become extremely diluted, and this has, indirectly, made it impossible to apply the principles of EU regulations on the information and consultation of workers. In order to arrest the growing representation deficit in firms, the governments have introduced institutional interest representation in the form of works councils as an alternative regulatory body, but while still maintaining the existing union privilege. These statutory changes have been made without the full agreement of the social partners and in particular the unions. With the rejection of the works council idea by the unions, the possible benefits of a functional division of labour between institutionally regulated and trade union representation will be felt only to a limited extent for the time being (Stanojevic and Gradev 2003).

Maintenance of traditional structures, but politically duplicated: In another variation (particularly prevalent in Poland), the trade union movement is divided into two large, non-cooperating factions and with additional party-political ties. This too makes it more difficult to adapt and modernise in order to develop the organ-

isational power of the unions. The result is that the fragmented unions are being eroded and marginalised in a growing number of firms, and there are no answers to new challenges for the unions and for labour policy. A move away from polarising politicisation was triggered, in Poland's case, for example, by the decision of Solidarnosc to withdraw from party politics and to concentrate more closely on its fundamental trade union responsibilities.

Introduction of a dual system of representation by the state without the agreement of the unions: In practice what this has produced – in Hungary, for example – is a conflicting dualism, since the unions regarded the works councils (introduced in 1992) first as rival bodies, not least because of the competition that they already faced from each other as a result of excessive union pluralism, which was also reflected in the works council elections. This has blighted cooperation, though now to a lesser extent, between the two forms of representation. The works councils on the other hand, which have only weak rights, urgently need advice and external support in order to be able to play their role adequately. This is particularly true since the management side too initially had reservations about creating dualism by simply 'duplicating' representation if this did not bring appropriate benefits in terms of industrial harmony.

The complementary dual system with active cooperation between union and works council, as another model, also shows the start of a move towards extended labour relations: for the management these are no longer just new negotiating systems, but can at their best be the expression of common organisation concepts (even going as far as co-management with a work manager (labour director) appointed by the works councils in firms with more than 500 workers). The underlying aim is the economic democracy which the constitution provides for. What is needed here in institutional terms is for union representation to come with strong participation rights and for the works councils to be supported by their unions, and there must also be coordination between sectoral wage agreements and elected representation as second channel, which again can increase the presence of the union in the firm. This tandem solution brings benefits for everyone: high productivity and high wages. Slovenia is a good example here.

Given the existing shortcomings in social dialogue repeatedly referred to in the Brussels screening reports, the relevant EU regulations on the minimum levels of worker participation in firms made it necessary to amend labour legislation with a view to accession, as has recently widely been started (the Czech Republic in 2001, Slovakia and Latvia in 2002, and Lithuania and Slovenia from 2003). Many of their governments also felt obliged to find compromise solutions for institutional

interest representation. Some of them initially went for a dual model, but were forced by union pressure to abandon it.

In the case of the Czech Republic the result was a solution in the 2001 Labour Code which keeps to the principle of a single representation structure either by a works council or by a company union: only where there is no union representation in the company can a works council be set up with the right to information and consultation and, possibly, to agree company collective agreements. Consequently, an elected works council automatically has to cease operation if a company union is formed later on. These new regulations (the so-called Czech model) have had little effect up to now, since the unions are not developing any activities in this field.

In Slovakia, however, the Labour Code which came into force in April 2002 has given interest representation greater statutory backing by introducing works councils which employers cannot prevent from being set up, but must actually guarantee. Thus, with what is again a single representation structure similar to the Czech model, the situation could develop where the unions make use of these newly available structures by persuading the elected works councils to become their members and support them in their work. Statutory access to an institutional representation is thus established. Lithuania's 2002 Labour Code also heads in this same direction.

At an institutional level it is clear that the CEE countries have mainly single, but also dual representation in firms, with different variations. Three systems can be distinguished here, according to their legal form and the powers they enjoy:

- trade union representation alone, by one or more company unions;
- alternatively, representation by a company trade union organisation or an optional works council,
- a dual system of works council and union representation with fairly clearly divided responsibilities.

2.2. Sectoral labour relations and collective agreements

In almost all the candidate countries the largest differences and deficits compared with practice in the EU are to be found in sectoral dialogue (Lado and Vaughan-Whitehead 2003). With the exception of Slovenia, sectoral collective agreements are much less important than in the EU, being the exception to practices that are more reminiscent of Japanese or American models (see comparative figures in Kohl/Platzner 2003). This intermediate-level deficit seems to be a basic feature in countries where the trade unions have not been able to develop unifying condi-

tions for developing sector-wide solidarity, or bring greater pressure to bear in order to implement their own distribution demands. This last point has to do with their inability to organise strikes and their lack of experience with them.

There are a number of factors to blame for the trade unions' weakness:

- the fact that the unions are severely fragmented, and consequently – with the predominant orientation towards the company – the lack of a sense of solidarity;
- the deliberate weakening of the trade unions by would-be liberal regimes, or at least the neutralisation of their potential to bring pressure to bear by the use of tripartism as an instrument of appeasement;
- the lack of employers' associations or, where they exist, their refusal to enter into collective bargaining above the level of the company; the employers often ignore the benefits of having comparable labour costs, much valued by western European umbrella organisations (including UNICE); they see themselves primarily as lobby groups vis-à-vis the government, and only secondly as social partners with the task of establishing independent frameworks;
- the general pressure of ever-increasing unemployment caused by modernisation and privatisation.

If we compare the coverage rates of collective agreements in the EU Member States with those of the candidate countries, there is only one, Slovenia, in the top third of Europe's leading group with figures around 90% (Finland, Austria, Belgium, Italy, Sweden, Greece and France). In the bottom third, with predominantly company-level wage agreements and a settlement rate of around 40% and under, are Slovakia, the Czech Republic, Hungary and Poland (together with the United Kingdom), while in the middle, between 70 and 80%, are the other current Member States (Portugal, Denmark, Germany, the Netherlands and Spain) on their own. Right at the bottom, with comparatively low coverage rates between 15 and 20%, are the Baltic States (Kohl/Platzner 2003: 175; Lado and Vaughan-Whitehead 2003).

What is important if collective agreements are to apply more broadly beyond the immediate circle of union members or employers' associations is for the state to declare settlements generally binding, which is as yet a relatively undeveloped practice in the CEE countries.

For the purposes of comparison, as well as looking at institutional issues, we also need to consider the importance of the practical effects of collective agreement relations, and the way in which the distribution margins are used is crucial here. Increases in productivity and the inflation rate to be calculated are usually used as cost-neutral distribution parameters. These basic indicators in the 'pay formula'

recognised in the EU as part of national competitive corporatism and wage-setting practice (Schulten and Stückler 2000) are also revealing for the candidate countries. The following table of comparative data for the eight CEE countries provides us with a basis for assessment.

Table 1: Basic labour indicators, 2000/2001

	PL	CZ	SK	HU	SL	EE	LV	LT
Productivity 1992 = 100	212	157	149	260	171	140	144	120
Real Wages 1992 = 100	158	143	112	106	140	140	140	124
Average income (monthly) in €	480	365	267	336	925	285	267	236
Average income (monthly) PPS	679	824	699	691	1130	590	505	471
Per capita GDP in PPS, average of EU 15 = 100	39	60	48	53	72	38	29	30
Minimum wage in €	160	90	98	108	386	90	92	100
Working time (weekly)	41,4	41,1	42	41	41,5	41,4	43,5	39,5
Unemployment rate	18	8	19	6	6	12	13	17
Inflation rate	5.3	4.5	7.0	9.1	8.6	5.1	7.7	5.9

PPS = comparative real purchasing power standards according to EU definition

Sources: Galgoczi 2002, European Commission 2002a, Bundesarbeitsblatt (Federal Labour Gazette, EU Enlargement 2002 series), Eurostat, own calculations.

What is striking is the enormous increase in productivity in Hungary and Poland between 1992 and 2000, far greater than the rest of the candidate countries. This should be seen as a reflection of the fact that Hungary and Poland started out with a higher proportion of foreign direct investment, which then generated innovation. On the other hand, account should also be taken of the original level of productivity, which was comparatively higher in Slovenia where there was already greater exposure to international competition. In the Baltic States the transformation period generally started a good two years later as a result of their exit from the Soviet Union and the fact that they were more severely affected by the rouble crisis in 1998.

If we compare the real wage increases attained in parallel with this, we can see that there are equally clear, but by no means analogous differences. With the exception of the Baltic States they are far below the theoretically possible distribution margins, with Hungary the most extreme example here.

However, two points must be borne in mind when assessing all this. First, these figures relate to productivity increases resulting not just from rationalisation and innovation, but also in some cases from swingeing cuts in surplus workforce. The extent and pace of privatisation also contribute to the level of unemployment and the possibilities for adjusting wage levels. Compared with Poland's policy of forced

privatisation, Slovenia, for example, laid emphasis on the need to modernise first in order to keep the employment issue under tighter control.

The actual real incomes in euro or, more clearly, in purchasing power standards (PPS) produce a different distribution: here Slovenia is well out in the lead ahead of the Visegrad countries and the Baltic States. When looking at real wages account must be taken of the different tax rates, which are particularly high in Hungary. In the Baltic States, on the other hand, especially Lithuania, the state does a lot to force purchasing power policy.

The state-regulated minimum wages are usually below the subsistence level, except in Slovenia. However, they are often used as the basis for pay, particularly in the Baltic States, and the way in which they are fixed (usually by tripartite bodies) is thus very important. Depending on the country they range between 26% and 40% of the average workers' wage. In some countries they have recently been edging up over 50%, in other words above the poverty line. Nevertheless, the continuing social polarisation in the candidate countries has prevented many people from escaping from poverty.

The question then arises of how far, in view of the existing economic margins, the structure of labour relations is a factor in the identifiable distribution deficits. Two elements support this idea:

(1) First, the continuing lack of sectoral wage agreements, which have a considerable impact on distribution dynamics, and the fact that often sectoral framework agreements are not adequately applied in companies. Wage increases then tend to lag far behind real economic growth.

(2) There is another associated disadvantage here: the lack of pressure from the workers' organisations to push through their demands, such as by taking industrial action at sectoral level. A comparison of the strike rates in the CEE countries in the 1990s shows that, with few exceptions, almost all industrial action was in the public sector, while the private sector was practically unaffected (European Commission 2002a: 100ff.). As a result, wage levels in the public sector are considerably higher than in the private sector. The distribution margins in the private sector are thus still not being adequately exploited, which is adversely affecting the adjustments needed to bring wage levels in the CEE countries into line with the EU Member States. This can be put down not only to the often restrictive nature of workers' rights to strike, but also to the lack of solidarity between workers as a result of the fact that the collective bargaining system is very much company-orientated. Deficits in the way negotiations are conducted, as reported by those involved, are another factor here. Inadequate knowledge of how businesses are managed also

leads to excessive reticence in internal communication and in the public relations work done by the unions.

2.3. Tripartism as a compensating factor?

Generally speaking, governments are always particularly keen on tripartite dialogue when closer relations are needed for crisis management, such as at the start of the restructuring phase or now immediately prior to EU accession. However, in trying to achieve greater acceptance, the social partners can be tempted to focus on political considerations and neglect the necessary culture of conflict, particularly when they are up against the state as weaker partners in an unequal 'triangle'. This is particularly the case where the tripartism practised in economic and social councils or similar bodies is based on unclear power structures, as the EU's 2002 progress reports have complained. The main European social partners' associations refer to this form of social dialogue more accurately as 'social consultation' (as stated in the 2001 Laeken summit declaration, see European Commission 2002b: 127ff.).

The following points can be made from a comparison of labour relations in the eight countries:

- All eight countries have, in principle, tripartite dialogue structures at the top level, the majority of which operate well. There are differences in the powers of these dialogue forums and in the extent to which the results achieved through tripartite social dialogue are binding for the process of developing political objectives.
- This again highlights a common problem in the candidate countries: the need to strengthen the actors involved in social dialogue. In the context of tripartism the social partners are only taken seriously by the state if they appear self-confident and have a certain potential to exert pressure. The social partners could wield greater influence in tripartite negotiations by agreeing joint positions bilaterally in advance, though this also requires effective cooperation on other levels.
- Slovenia, with its particular set of circumstances, can show that tripartite and bilateral social dialogues are not mutually exclusive, but mutually reinforcing. This country is proof that both options work: bilateral labour relations, gradually improving through the construction of wide-coverage sectoral wage agreements, and effective tripartism.
- Recently there has been an unmistakable trend towards regionalisation and the further extension of tripartite structures in society, in some cases involving

actors other than the traditional social partners, e.g. NGOs at local level. Regional social dialogue is an important requirement for using the European Structural Funds later on.

To sum up, therefore, can tripartism be interpreted positively as a training ground for social dialogue? Perhaps so, if tripartite structures can come to be seen as something triggering greater democratic involvement for civil society in other areas too. For this, the governments must be prepared to encourage the trend towards decentralised and bilateral independence to conclude agreements, in addition to tripartite negotiations. This means that the social dialogue actors must be allowed to come out from under the state's thumb, as it were, to agree wages and working conditions, thus empowering them to act as partners within the tripartite structure. However, this will mean enacting further procedural rules, as called for once again in the 2002 EU progress reports (Commission 2002a).

3. LABOUR RELATIONS IN CENTRAL AND EASTERN EUROPE AND THE EUROPEAN SOCIAL MODEL

General descriptions of the European social model stress the parallel and complementary nature of economic development and social progress, economic dynamism and social equality in the societies of the post-war era. The basic features are seen as ordered diversity, extensive social integration and the institutionalisation of social equality, incorporating in particular social security and labour market regulation (pay and working conditions regulated by the state or by collective agreement, with the sectoral collective agreement dominating).

Within these general common features the concepts of the welfare state and the ways in which it has developed have varied. There is therefore no 'single' European social model, but a number of different variations of it (Aust et al. 2002). Since it was popularised by Jacques Delors in the mid-1980s the European social model has also found its way into the EU political debate as a future formula for social integration: 'As a European integration project within which the structural linkage of economic growth and social equality ...becomes the subject of supra- and transnational regulation and institutionalisation' (Aust et al. 2002: 273).

With both concepts – national institutionalisation of the socio-economic conciliation of interests, and transnational regulation and modernisation by the EU – labour relations are a fundamental element of the European social model. Whether and to what extent the transition societies of Central and Eastern Europe are

moving closer to this model with its common core and national variations is difficult to answer conclusively today, even with a comprehensive analysis of the political, economic, cultural and social developments in the CEE countries. Our attempt to record and evaluate the developments and shape of labour relations in a pan-European comparison must be seen in the context of this general reservation.

3.1. Labour relations: an East-West comparison

Comparative research into labour relations assumes four basic western European models: northern European corporatism, continental European social partnership, Anglo-Saxon pluralism and the polarised labour relations of the Romance countries (Ebbinghaus and Visser 1997). Even though developments in western Europe in the 1980s and 1990s have made this typology a less reliable tool for differentiation (Schroeder 2001), it can still be used to compare the basic characteristics and main distinguishing features of the eastern and western models. The following general conclusions can be drawn.

(1) None of the national systems of labour relations in the CEE countries can be classified under any of the four basic western European models. Only the Slovenian system comes closest to one of them, the continental European social partnership model along German/Austrian lines. The basic elements which typify the 'Nordic corporatism' model are not found in any of the candidate countries.

What is effectively the almost complete absence of a sectoral wage-negotiating level in almost all the CEE countries is reminiscent of the 'Anglo-Saxon model', but at the same time there are two important differences, one legal and one political: from the legal point of view the basic elements of collective labour law in the CEE countries are comparatively more heavily regulated than in the 'proactive' Anglo-Saxon model, while when it comes to pushing through demands on pay and working conditions at company level, the collective representation of workers' interests and the power of the unions is traditionally much stronger in the Anglo-Saxon model (as a comparison of developments in pay and income clearly underlines).

One obvious common feature in all the transition countries is the influence of the state on labour and wages policy in view of the fundamental weakness of the intermediate system represented by the social partners and their inability to negotiate pay independently. This feature is shared to a certain extent with the Romance and southern European systems of labour relations, particularly in France, where labour relations are characterised by the state's continuing compensation and intervention measures (periodic fixing of minimum wages, declaration of universal applicability, regulation of working time by law rather than by collective agree-

ment). Unlike the 'Romance type' of western European labour relations, however, the workers' organisations in the CEE countries have developed a political orientation during the course of the transition – even where there is mainly union pluralism – which bears no similarity to the tradition in the Romance countries of having unions with a distinctive ideological orientation. In addition the policy of the trade unions in the CEE countries as a whole does not involve predetermined conflict strategies and political-ideological polarisation.

(2) Even though the transition has basically been geared towards western European models of democracy and (social) market economy, and despite a wide range of consultation measures from western Europe, it is almost universally the case that systems of western European institutions and regulation models have not been 'imported/exported' wholesale. Each country has developed its own regulation model giving it its identity. Labour relations in a given country are thus the result of specific political, economic and cultural factors and developments. In addition, both their creation and their effect are context-dependent. Thus the importance of the labour relations institutions depends just as much on a country's basic non-legal conditions as on the rules of individual labour law and the accompanying measures in social law and social policy.

(3) The differences between the CEE systems of labour relations and the basic 'mature' western European models are considerable. If we compare labour relations between the CEE countries, we can see that what they have in common, significantly, are structures which are still weak and fragmented at the enterprise level and the widespread absence of action and organisation at a sectoral level. Another common feature is the fact that in company-level labour relations there is still political indecision and genuine tension between deregulation concepts on the one hand and the strengthening of social rights and participation mechanisms on the other. The deregulated, individualised concept is typical of the situation in the majority of SMEs, which effectively make up the private sector. In many cases there are no unions to act as a corrective power and collective agreements are rare. A sceptic would say that union-free, individualised SME structures are likely to come to dominate the whole of the economy (Weiss 2002). Against this background the further development and strengthening of what have, up to now, been only rudimentary sectoral labour relations and collective agreement structures also remain problematical in the medium term and of vital and critical significance for internal development (Stanojevic and Gradev 2003).

(4) So from an overall European perspective a further 'independent' type should be placed alongside the (four) basic western European models: the 'CEE labour rela-

tions model'. Because the intermediate-level and free collective bargaining fields are underdeveloped, this type is heavily state-orientated, and its social actors, which are developing at different rates, have up to now been more inclined to overcome social and economic regulation deficits largely with state help. As in western Europe, it is also true here that this basic model varies greatly in its institutional form and its operating methods. Though the countries all face similar demands resulting from fundamental structural change, widely different solutions have developed within a certain range, again determined by a clearly perceptible conservatively structured or else innovative approach (Kohl 2002: 415).

(5) Those institutional elements or western European 'labour policy components' that have been adopted in part, together with their (albeit only few) existing functional equivalents, are nevertheless to be seen as steps towards the 'Europeanisation' of labour relations in the CEE countries from what were the original historical conditions. However, it has to be said that, in pan-European comparison terms, the wide range of models and structures in national labour relations in the enlarged EU is set to increase dramatically once again. The adoption of the EU's *acquis communautaire* in the employment and social fields by the CEE countries is having a certain homogenising effect which is reducing differences between systems and disparities in development. The full and effective implementation of these EU rules will promote the 'Europeanisation' of labour relations in the CEE countries still further.

3.2. The prospects for integration: the challenges of EU enlargement

If we consider the future of labour relations in the enlarged EU, three interdependent problems emerge:

- Will labour relations in the candidate countries – under growing pressure from EU competition, the Community's macroeconomic management requirements and the ongoing implementation and practical transposition of the *acquis communautaire* – be able to make a lasting contribution to political stability, social acceptance and economic management?
- Or will 'defective' or fragmented labour relations and a pay structure and welfare state that are lagging behind developments in economic productivity have a negative effect on what has been Europe's social and welfare model up to now, and put pressure on it to adapt?
- How will the integration of the CEE countries and the attachment and adjustment of their labour relations structure to the established transfrontier, supra-

national system of labour relations influence the development of the European social model as an EU integration project?

Here too we can more or less identify how things are likely to develop in future in a number of possible scenarios.

(1) The adoption of the social *acquis communautaire* is already creating a common foundation of social and labour law in the CEE countries today. In the labour law field this includes the regulations on collective redundancies and transfers of undertakings and the directive on the posting of workers; in the equal treatment and equal opportunities field the directives on equal pay for men and women, equal access to employment and equal treatment in social security; finally, there are also the EU rules on occupational health and safety.

In the field of collective labour law the directive on European Works Councils, the directive on co-determination in European companies and – of considerable importance for strengthening company labour relations in the candidate countries – the directive on the information and consultation of workers adopted in 2002 (2002/14/EC) also introduce effective rules and standards. We have seen that in several candidate countries the implementation of the social *acquis* has already generated extensive amendments to national labour law.

(2) Admittedly, even the word-for-word adoption of this Community *acquis* in the field of individual and collective labour law does not solve the problems generated in the majority of the CEE countries by the fact that individual and collective employment rights have often scarcely begun to gel into a functional whole. In addition the formal adoption of the EU *acquis* in law does not guarantee that it will be transposed and applied in practice – particularly when there are no monitoring bodies and mediating actors in the labour relations system.

EU (minimum) regulations establish necessary – if inadequate – conditions for strengthening and stabilising labour relations in law and in practice. In all probability they will help to ensure that any major downsizing in social and employment policy in the enlarged EU triggered by the lack of order in labour relations in the candidate countries is prevented or at the very least restricted.

(3) The EU's powers in the social, employment and pay fields are limited and the existing legislation overall is fragmented compared with the national social and pay legislation in EU Member States. For example, the EU has no powers to regulate collective agreement systems, which in the case of the CEE countries are greatly in need of development. Just how far other established EU policies such as the structural and regional policies will give impetus to the structuring and stabilisation of labour relations in the CEE countries is impossible to assess at the

moment, given that these policies are scheduled to be rewritten in 2006. Nevertheless, experience in western Europe shows that these policies can strengthen the inclusion and co-responsibility of the social partners in the assisted areas.

(4) If we want to know what the subjects and scope of an active EU social policy are likely to be in the future, previous experience has already shown an asymmetry between the 'negative' (broadly speaking 'market-creating') and 'positive' (broadly speaking 'market-correcting') regulation of transnational social measures. Whether the Convention and the subsequent governmental conference produce a 'Constitutional Treaty' with extended powers for the EU in the social and employment fields remains to be seen, but it appears to be becoming more difficult and politically less likely in the midst of the enlargement process. It is to be assumed that the present employment *acquis communautaire* will not be significantly expanded in the future enlarged Union, and only at best in soft law areas. At the same time 'soft' forms of management – the open method of coordination already established and applied in a number of policy areas – will become more important. The trade unions, for their part, will have to continue developing their fledgling unilateral, transnational wage coordination. (On the situation and prospects in these policy areas and labour relations at EU level, see Keller and Platzer 2003.)

(5) On the question of how the actors and institutions involved in labour relations in the CEE countries will, through the process of integration, influence developments in supra- and transnational labour relations, account should be taken of the following: the establishment of European Works Councils and the organisation of future co-determination in European companies are based on legally prestructured negotiations. These, however, require actors at company and association level which are capable of national negotiation and transnational coordination.

The other EU policies too (employment policy, Lisbon strategy) are based on 'soft' forms of regulation and management in the open method of coordination, and thus focus primarily on the role of the social partners to organise and to share responsibility at various levels. At their current stage of development the institutions and actors involved in labour relations in the CEE countries appear to have only a limited ability to satisfy the negotiation and coordination requirements of EU labour and employment policy and to make active use of the opportunities that they bring. Regardless of the different socio-economic interests and needs which the old and new Member States have, this structural factor alone could make trans-frontier and supranational cooperation between industrial actors – trade unions and employers – more difficult in the future EU framework.

(6) The least difficult problems, relatively speaking, in the geographical and political enlargement of transnational labour relations lie in relations at company level, particularly when it comes to including the CEE viewpoints in the European Works Councils (EWCs). The involvement of staff representatives from these countries on a voluntary negotiating basis has already anticipated certain aspects of future practice. In quantitative terms, once the EWC directive assumes legal force in the CEE countries as part of the accession process the number of EWCs with CEE involvement will drastically increase (Kerckhofs 2003). According to current structural data (ETUI, Multinationals Database 2002) there are 316 concerns in Poland which come under the provisions of this directive; 206 of these already have an EWC, and in 50 of those Polish workers' representatives are already included. For other countries the figures are as follows: Czech Republic 176:117: 26, Hungary 175:114:23, Slovakia 91:57:16, Slovenia 39:24:3, Estonia 41:22:2.

(7) The main structural differences and thus the most problematical obstacles for future transnational policy will come in the field of transfrontier sectoral wage coordination and effective cooperation in 'sectoral social dialogue' at EU level. Here, analysis has shown that the European social model with its (continuing) heavy emphasis on coordinating wages policy above company level and organising wage bargaining independently at sectoral level has hardly even found a foothold yet in practically any of the CEE States. Admittedly there are 'interlocutors' in the form of branch unions, but they generally have only limited powers to negotiate pay and collective agreements, and thus they have extremely limited scope to negotiate and direct affairs within companies in a way which is geared towards transnationally agreed wage guidelines. Nevertheless, the establishment of transfrontier pay coordination networks, such as those that the German and Austrian metal unions pay-negotiating regions have recently started to develop, including with their partner unions in the neighbouring eastern countries, is an approach that could also be adopted on other scales (in the Baltic and Scandinavian countries, etc.).

3.3. Minimum requirements for positive change

It seems obvious that the accumulated pressure to modernise and adapt will soon push those responsible for labour relations in the transition countries to the limits of their practical organisation and conceptual strategy capabilities. However, they can overcome this situation on their own if comparable social structures existed historically and can be revived, or where a great desire for change, which can develop and utilise the social and economic 'productivity' of modern labour rela-

tions, can be put into effect. External and reciprocal support is essential in this process. Otherwise, with poorly developed social dialogue and inadequate structures for effective labour relations at vital levels, dangers can tend to snowball through growing poverty, exclusion and political radicalisation. Social processes running out of control in an inadequate civil society then inevitably generate repercussions in the form of euroscepticism, the rejection of European unification or a general aversion to politics.

The following are therefore necessary prerequisites for avoiding such deficits and undesirable developments in economic and working life, bearing in mind the historical nucleus and also the demands of the European social model:

- a guarantee of adequate information, consultation, participation and negotiating rights, particularly in statutory labour law;
- the existence and development (including by means of external support) of the social partners in associations which have the power to act;
- the creation of institutions required for social dialogue on all levels;
- more public dialogue from the EU (Economic and Social Committee, European social partners) to increase awareness of the importance of the social dimension in the accession process, and, vice versa, in the Member States;
- cooperation and exchanges both from the EU Member States and from the candidate countries, including in the form of inter-regional union councils or transnational wage coordination (e.g. along the lines of the 'Vienna memorandum' on wage coordination in the metalworking sector in the countries of central and southern Europe, or the 'Doorn initiative' between Germany and the Benelux countries);
- increased cooperation between interest representations in European Works Councils in multinational firms, even before the official accession date;
- the continued promotion of projects by the EU to further develop social dialogue on all relevant levels, tailored to the identifiable shortcomings in national, regional and sectoral social dialogue.

Only a series of measures along the lines of these minimum requirements will enable the expected benefits and the prospects and visions of ever closer growth to be realised in the new Europe, and with them the further Europeanisation of social, economic and labour relations driven by each separate region and country. Only in this way can the unmistakable dangers for the future of the European social model presented by the clear differences in the systems of labour relations in Central and Eastern Europe be overcome.

Translation from the German by Julie Barnes

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Norbert Kluge and Eckhard Voss

MANAGEMENT STYLES AND WORKER PARTICIPATION IN FOREIGN COMPANIES IN THE EU APPLICANT COUNTRIES POLAND, CZECH REPUBLIC AND HUNGARY

In most studies of the development of foreign investment in the central and eastern European transformation countries, references are found to the repercussions of this investment on production and employment in the countries of origin. Whether, on the other hand, the practices of foreign firms influence production and labour relations in the target countries, and if so in what way, is a question on which little information is as yet available. This paper reports on the findings of research conducted by wmp-consult (Hamburg) in 2002 on precisely this subject in the form of a study commissioned by the Forum Mitbestimmung – a joint initiative of the Bertelsmann Foundation and the Hans Böckler Foundation¹.

The Forum wished to know above all to what extent firms take with them their home practices of company management, corporate culture and, in particular, worker participation; and, vice versa, what might be the effects of their practices in the accession countries in terms of the possible emergence of a concept of transnational cooperative corporate governance in the overall context of the European social model.

With support from partners in three countries case studies covering eleven multinational companies were devised. Each of the companies analysed had its own production site in at least one of the countries concerned. The companies in question, in all three countries, agreed to take part. Five of the companies have their headquarters in Germany, and the others in France, Switzerland, the Netherlands and Finland, as well as the USA. One company is a British-US group.

Anticipating one major result, one gets no evidence of a special strategy of the management of multinational companies (MNC's) to shape industrial relations in their Central and Eastern European (CEE)-subsidiaries. So far they dealt with this

1 The final report is accessible on the Forum's website www.unternehmenskultur.org

topic very pragmatically: Companies, when it comes to questions of worker representation or – workplace – collective bargaining, adjust their behaviour primarily to the national, regional or local standards of the host country. Perhaps their attitudes could change in the forthcoming period after the realization of EU-enlargement. Investment in more R&D oriented productions and services will create a higher value. Necessary better qualified local workforce requires more reliable work relations and corporate cultures which accept worker participation as basic behaviour.

1. CORPORATE CULTURES INCORPORATE THE FEATURES OF THE COMPANY OF ORIGIN

Among the central and eastern European countries it is the Czech Republic, Hungary and Poland which, in the nineties, attracted by far the greatest proportion of foreign direct investment. These are today ahead of the other central and eastern European countries in terms of both absolute volume of foreign investment and per capita investment. German firms above all – often following traditions dating back to the last or previous century – have developed intensive economic contacts and set up subsidiaries or production sites. In all three countries they are among the most important investors with shares of between 14.5% (Poland) and 30% (Czech Republic). Firms that are German-owned, or in which German investors have a stake, employed, in 2000, 180,000 workers in Poland, 187,000 in the Czech Republic and 148,000 in Hungary (Deutsche Bundesbank 2002: 20).

About half of the companies included in the survey were pioneers in the privatisation process in their respective sectors. In some cases they were already active in the country in question, by means of partnerships and cooperation, prior to the transformation process. The vast majority of the cases studied consisted of takeovers or brown-field investments. Takeovers frequently affected national market leaders. In actual fact, no rigid distinction can be drawn between brown- and green-field investments, especially as in many firms in recent years there has been major investment in the construction or extension of production plant and infrastructures.

Key data on the companies included in the survey

Investor	Country of Origin	Target Country	Sector	Start of Activities	Employment in Target Country	Form of Investment	Market orientation	Integration in international production networks
Robert Bosch	Germany	Czech Republic	Automotive, electronics	1992	6 600	Acquisition und Greenfield	Export market	High
Linde Technopolyn	Germany	Czech Republic	Chemical	1991	1 000	Acquisition	Local market	Low
Saint-Gobain	France	Czech Republic	Glass, automotive supplies	1995	3 000	Greenfield	Export market	High
Siemens	Germany	Czech Republic	Engineering, electronics, IT	1994	10 000	Acquisition und Greenfield	Export and local market	Low
Knorr-Bremse	Germany	Hungary	components for rail vehicles	1996	550	Acquisition	Export market	High
GE Tungsram	United States	Hungary	Electronics	1990	14 500	Acquisition	Export market	High
Elcoteq	Finland	Hungary	Electronics	1996	2 250	Greenfield	Export market	High
Telekom / Matav	Germany	Hungary	Telecommunication	1993	9 600	Acquisition	Local market	Low
GlaxoSmith Kline	Great Britain/ United States	Poland	Chemical	1995	1 000	Acquisition	Export, and local market	High
Philips Lighting	Netherlands	Poland	Electronics	1991	8 000	Acquisition	Export market	High
ABB	Switzerland	Poland	Engineering	1990	2 500	Acquisition	Export market	High

Source: wmp consult

Foreign investment consists of the transfer not of capital alone but also of human capital, particularly in the senior management echelons of the newly set up companies. Foreign managers have generally been responsible for overseeing the reorganisation or establishment of production sites. It is striking that German firms, in comparison with others, continue to be the most prone to rely on German management in their central and eastern European firms and the most hesitant to entrust senior-management or even middle-management positions to recruits from the local workforce. This may also be attributable to the fact that a global outlook in management training and participation of local management recruits

in international training programmes are features better established and more often taken for granted in British and American firms than in Germany. In all the firms covered, managerial staff from the host country subsequently received training for their future tasks in the company headquarters to ensure that, even after the "ex-pats" had left, the corporate managerial know-how would be handed over and preserved.

Corporate management guidelines have always served and continue to serve managers as a blueprint or master plan for implementing company goals under various local conditions. Even so, it is neither the intention nor the reality that these be transferred in respect of every detail. It is indeed no easy matter to transfer flat hierarchies, decentralised management or team orientation from one labour culture to another. Even in those firms which did seek to do this, such transfer never took place in the initial phase but, generally speaking, once this had been consolidated and in the perspective of a longer-term project.

It is a fact that corporate cultures are in practice highly influenced by the management style of key personnel such as factory managers. The question is how and to what extent these actors manage to introduce their managerial and corporate goals into the local context. According to our observations, it is perhaps for this reason that the methods of the company management were predominantly geared to business targets. It was our repeated experience that in the central and eastern European countries – as elsewhere – the transfer of company-wide management philosophies does not in practice constitute an autonomous and independent company goal.

The research – and in particular that covering major individual investors operating several subsidiaries and production sites covering a range of economic sectors in the countries in question, such as Bosch or Siemens in Czechia, General Electric in Hungary, or Philips in Poland – revealed an extremely broad range of practical approaches to management issues, including those relating to workplace representation arrangements and bodies.

A decade down the line, it is now possible to classify the various stages in the transfer of managerial styles, management processes and human resource practices. These stages are characterised by specific goals and contents of the transfer, which themselves have undergone change in the course of time. The intensity and persistence of efforts to transfer well-established practices depended above all on the company strategy in question: was the idea merely to establish production sites at a geographical remove with a view to exploiting short-term comparative

cost benefits, or was a longer-term quality production to be developed with the goal of integration into European or global corporate networks?

Companies which are committed to developing quality production in the context of a long-term relationship with the new production location have to go further than others in the transfer of labour management techniques. This must involve the adaptation of a common corporate philosophy – and in practice a corporate culture – to enable the company located abroad to become an integral part of the whole. Such a process entails continuous training and further training of managerial staff and other skilled members of the workforce. The more the company has a need to recruit a skilled workforce, the more the work satisfaction and motivation of employees is a factor that counts. Companies whose production calls predominantly for semi- or unskilled labour, for example in the production of sheet glass or pharmaceuticals for global markets, have to make a different kind of internal effort than companies requiring the labour of skilled workers and engineers, as for example the production of high-tech components for automobile production.

Whatever the differences between companies and situations, it is to be observed that the form adapt to national circumstances and contexts insofar as it is advantageous to them to do so, above all in terms of cost benefits resulting from lower social contributions, lower pay standards, or greater workforce flexibility because of weaker protection against dismissal. Of their established corporate culture only so much is transferred as is absolutely necessary for integration into international production circuits and to achieve the requisite quality standards. Our findings thus confirm the hypothesis that management practices and styles are not simply transferred from one country to another (this being deemed neither desirable nor feasible). It is invariably much more a question of adjusting and making the most of what the model has to offer in a differently structured set of

Ideal-typical stages of the transfer of management guidelines

Stage	Goals	Contents and instruments
Initial set up	Integration into the firm as a whole and substantial restructuring measures in the production field	Devising appropriate software for production needs (bookkeeping, reporting, controlling, general administration) or linking up with what is already in place in the firm Transfer takes place for the most part in the form of management expatriates
Consolidation	Carrying out substantial restructuring measures in the production and work organisation fields and ensuring quality standards	Putting in place personnel and HRM practices and reorganisation of management and leadership processes Introduction of quality control, new working time and remuneration systems, etc. Transfer by expatriates, including at departmental level, as well as training of future managers but also, to some extent, specialist staff and skilled workers (e.g. periods spent in companies abroad)
Development and business excellence	Creation of a long-term and sustainable basis for the corporate development of the foreign company The foreign company becomes a separate and in many respects independent part of the parent company	Strengthening of the corporate culture, development of guidelines and own strategic corporate goals Company-specific solutions in the field of worker involvement and interest representation Satisfaction and motivation of workforce becomes an important corporate policy goal In some cases developing own vocational training arrangements for skilled workforce also
Expansion	Transfer of greater responsibility to the foreign company	e.g. transfer of R&D capacities to the country e.g. concentration or shift of whole production departments and their management Increasing definition of own corporate goals

Source: wmp consult

Galgoczi (2002) and Kotikova/Bittnerová (2002).

institutional and cultural conditions. This is a process described by social scientists as 'hybridisation' (Boyer et al. 1998) or 'institutional isomorphism' (Bluhm 2001).

2. INSTITUTIONAL ARRANGEMENTS FOR WORKER PARTICIPATION ARE NOT A PART OF THE CANON OF MANAGEMENT PRINCIPLES AND TRANSFER

What is observable is a selective transfer over the whole field of workplace industrial relations. It is apparent that dealings with worker representation bodies belong less to the code of universal corporate management standards, but fall

rather into a category that might be defined as "as much corporate culture as necessary, as much adjustment to local features as possible". In some cases established social or labour policy practices are taken up, for example free meals may continue to be served in the works canteen, rent subsidies or holiday facilities to be made available. Traditional annual bonuses have been preserved, but adjusted to the new conditions, so that they are now linked to performance criteria.

A striking feature is the only limited extent to which the German companies take with them their positive experience at home with the cooperative management model of co-determination and to which they use it as a component of their cross-border corporate culture and identity (such a hope was expressed by the Co-determination commission of the Bertelsmann Foundation and Hans Böckler Foundation in 1998; cf. Empfehlung 22:118). Instead the companies, irrespective of their origin, retain certain features and combine them with local management practices – sometimes with trade unions and sometimes without them, sometimes with organised workplace representative body and sometimes without. In the majority of the companies covered by the study with several locations in the target country there are, under one and the same company umbrella, some workplaces with trade union or other worker representation and some without. On this point our case studies bear out the findings of earlier research, according to which the nationality of the investor "is not a reliable predictor of their attitudes towards trade unions in the host countries" (Pollert 1999:216).

The practices described above might also be interpreted as a highly pragmatic approach to dealing with the facts of the situation. In the overwhelming majority of the companies we researched, including also some distinctly smaller branch operations of medium-sized firms, worker representations, insofar as they exist, are not called into question, whether these be trade unions or works councils. In only one single case was any form of interest representation openly rejected by the company management. In contrast to this, we found one case of worker participation way above the statutory minimum standards. Even in the case of green-field investments, there was generally no attempt made to prevent the formation of interest representations. All in all, the predominant practice in the firms researched is a rather formal form of cooperation with interest representations and this is the case regardless of the country of origin, mode of investment and company strategy. The instances of rejection and confrontation with trade unions and interest representations that have been described, particularly in relation to foreign investment by medium-sized firms in the central and eastern European countries (Bluhm 2001:163), did not find confirmation in our research in relation to the large firms considered.

Nonetheless, in practice differentiated patterns do emerge in terms of dealings with worker representatives on the spot insofar as such dealings are affected by the native experiences of the actors concerned: an American manager will react differently than a French one in this situation. Management in subsidiaries of German parent companies deals with worker representations as they would with a works council, even though there exists no such body in the form in which they know it at home.

An interesting feature in this connection is the picture offered by a glance at representation of the workforce of CEEC subsidiaries in European works councils: although representation of CEEC members on the European Works Councils (EWCs) of companies with activities in the CEECs is generally rather weak – there are CEEC members or observers in only 84 cases (15%) among the 547 MNCs with operations in the CEECs and required to set up an EWC (323 of which have already done so) –, German and Scandinavian MNCs evidently score better in this respect than others (Kerckhofs 2002 60-71).

It is also to be observed that foreign companies like to see themselves as 'good employers' in that, as evidenced by our case studies, they observe the country's own statutory and collectively agreed practices and, for example, keep their employees regularly informed about economic developments, conduct annual bargaining rounds or involve the workers' representatives in legally circumscribed areas of concern, such as occupational health and safety. This affirmation is to be assessed, however, against the background of rather under-developed social partner relations and generally weak and fragmented trade union representation (cf. European Commission report 2002; 87 ff.). It is true that the companies come up against variable national and sometimes mutually divergent statutory provisions on worker representation at workplace and higher levels, which hardly facilitates matters for them.

3. SUMMING UP – FEW POSITIVE PROSPECTS FOR THE TRANSPOSITION OF THE EUROPEAN SOCIAL MODEL INTO NATIONAL REALITY

Our research shows, whether we like it or not, that the practice of corporate management and worker participation in multinationals' various production locations has a general influence on the reality of industrial relations in the countries of central and eastern Europe. Because foreign firms are, in every respect, of great sig-

nificance for the countries researched, and because industrial relations and production regimes are very much still in the making (Kohl 2002), they emit an impetus for the development of social partner relations at workplace level and above. These relations, as is well known, play a central role in the ideas of the economically successful European social model (Article 138 of the Maastricht Treaties; cf. European Commission 2002). Even if the firms researched by us emerge in the main as comparatively 'good employers', scant support can be expected from them for the realisation of this idea:

- Because workplace interest representation is not dealt with by the company management in either a formal manner or a unilaterally voluntaristic manner, the acceptance of a single and binding form of interest representation, in whatever form it may be laid down by law, on the part of the MNCs branch operations is not strengthened. Good practice in this area does not belong, in the overwhelming majority of the companies we researched, to the canon of exemplary investment behaviour, but is left to the responsibility, as regards its concrete shaping, of the local managers.
- A contribution by the firm to the strengthening of national social partner relations is not perceptible. They neither seem to incline to commitment in home employer federations nor do they show themselves to be open-minded about the trade union organisation of their workforce and provisions collectively agreed at a level higher than the company. Preference is given to local or group solutions, either unilateral or in agreement with the local workforces or their representatives.
- At the same time the trade unions seem to derive scant benefit when, as has happened in some cases, they are brought into the interest representation and collective bargaining procedures. Since an understanding of trade union workplace policies attuned to reality is barely developed, learning processes in this respect are in their initial stages.

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CEE SOCIAL DIALOGUE AND TRADE UNIONS IN THE ENLARGEMENT CONTEXT – DEVELOPING OR DIVERGING

The spring of 2003 witnessed the manifestation of two distinct approaches to shaping global order, security and prosperity in the world. At the peak of the US/UK military campaign in Iraq the European Union (EU) was finalising the preparations of the biggest wave of enlargement. Ten new members will join the EU in 2004 – most of them from central and eastern Europe (CEE). The enlargement firmly fixes the EU as a global player with significant economic weight and potential to influence all policy fields, especially the nature of the globalisation process in the future. The "European Social Model" (ESM), whatever its definition and interpretation, has been and will also in the future be a focus, a reference point and hope for a lot of societies in and beyond Europe. Undoubtedly its most distinctive and powerful features, compared to other models in the world, are rooted in the underlying principle of solidarity across social groups and its dialogic nature in setting and pursuing policy objectives.

In this context the question has been raised about the input of the new members into the enlarged EU and the development of the ESM. The issues at stake are extremely complex and there are already situations where the CEE members are facing claims of too rigid labour protection standards- a danger which the World Bank terms "Eurosclerosis". At the same time these standards are being seen as a source of danger for "social dumping" and destabilisation of the internal labour market in the EU.

The aim of this paper is far from the ambition of providing an answer to the bigger question on the future of the European Social Model but rather to provide some additional considerations and perspectives to the debate. To this end it is primarily focused on the state of social dialogue, the behaviour of actors and the factors involved in an efficient EU economic and social integration process.

1. THE EU STRATEGIC APPROACH TO ENLARGEMENT AND ITS SOCIAL DIMENSION

The decision from the Copenhagen EU summit in December 2002 and the Accession Treaty in itself have already been a recognition of the successful preparation of the CEE countries which have to apply to "conditionalities" for making progress towards the EU. Another proof of the efficiency of the EU policy is that it has already been directed towards the Balkan region at the Thessaloniki Council meeting in June 2003.

In that sense however the assessment of the process implies that it has been satisfactory, even if not perfect and fixed in the right orientation, in reaching the necessary targets within stable trends. Then, if the desired effect has been materialised why the concern about CEE countries eroding the European Social Model.

Setting the stage

If in the beginning of the 1990s the idea of social Europe had been under pressure in the EU itself then what were the chances for CEE societies that had just emerged from the centralised systems and were entering an unprecedented "transition" process to market economies? The model of change for CEECs was based on the assumptions of the IMF/World Bank approach which largely rooted in the neo-liberal economic theory.

Within that philosophy social development had the status of a residual output of the market development, competitiveness and economic growth. A couple of factors contributed to that situation:

- The magnitude of the necessary changes with an inevitable hard core of restructuring and privatisation;
- The resource gap – building a market based economic system without fresh capital and reserves to counter the negative effects;
- Deficit of ideas and alternatives. Despite the criticism from different sides on the way IMF has handled the "transition" no other – European, left or socially responsible – model for change has been offered and politically backed;
- The EU has been following a low profile line in that area, leaving the IMF to lead.

Shaping the EU approach

Key steps in the enlargement process were the pre-accession strategy, adopted at the Essen summit in December 1994, and the subsequent 1995 European Commission White Paper elaborating the scope and technique of implementation. The

debates around the preparation process seem to have been concentrated around two dilemmas (Baun, 2000, p. 64)

- To formulate a well balanced message to the CEE countries about the process, neither too relaxed – to keep incentives for reform high, nor too tough – to counteract the feeling of enlargement as a “mission impossible”;
- To focus the strategy in the right direction, i.e. to embark on a more narrow approach dealing exclusively with the Single market or a more comprehensive one including social and environmental issues.

As the final title of the White Paper suggests – “Preparation of the Associated Countries of Central and Eastern Europe for Integration into the Internal Market of the Union” – the decision has been towards the more narrow approach. It had been argued that in the other two areas the CEE countries are too far behind and the issues are too complicated. Obviously the social and environmental issues were postponed to the next stage of enlargement that would have to deal with the “*acquis*” as a whole, the accession negotiations.

There are two problems with such an approach. The first one is the understanding of “delay” in the context of “transition”. If the enlargement process foresees a relative freedom of structuring and sequencing implementation will become difficult. “Delay” does not imply an empty space; it means however that other actions have been undertaken in the meantime by other actors and these can shape the “action field” in their own way, secure control over resources and reorient development.

Secondly, is closely linked to the first. The message of the White Paper is that the various governments can proceed primarily with the economic reforms and deal with the other items at their own discretion. The general attitudes of the CEE elites towards social dialogue have been ranging from amicably reserved to openly hostile. Governments could see in such a message the legitimacy to pursue their way and keep the trade unions at the periphery of the decision-making process. As a result, the intensive restructuring of the economy, privatisation and substantial inflows of FDI have too often emptied the social dialogue and turned it into “hollow institutions”.

Accession negotiations – new dynamics and content

Negotiations inevitably form the most crucial period in the accession process as the decisive step towards real EU membership and the framework for future development. Failure at that stage had to be ruled out in order to safeguard the paramount goal – the entry into the EU. The second priority was the transposition of

EU law, the harmonisation of the domestic legal and normative base with the *"acquis"* and the creation of the implementation and enforcement capacities. Thirdly, everyday life problems caused by the reforms had to be solved.

The power structure would be based on a somewhat loose hierarchical order with the government on top switching the reforms "on" and "off" depending on its interests and using the free space allowed by the "conditionalities." When pressure had to be exercised internally it could be on "EU demand" or to facilitate "entry." When it had to be directed externally it was "in the national interest." Social issues can figure as arguments supporting the case but would not make an organic part of any of the above categories.

The case of Hungary under the Orban government is indicative in that area. At the end of the 1990s the government restructured the whole system of social dialogue and led it into a state of "paralysis." Hungarian social partners reacted against these changes. Trade union channels on the European level were mobilised. The relevant Commission body for this part of the negotiations – DG Employment and Social Affairs – underlined the discrepancy of the Hungarian approach with the EU understanding of social dialogue and monitored the situation until remedied. The government fired back at the unions assessing their behaviour as almost betrayal of national interests. This case however has been unique in the enlargement process.

The accession negotiations differed from the previous stages in a number of ways:

- Social Europe has been making real progress since the late 1990s. So the new members could not avoid incorporating this headway. Second, the demonstration effect has been providing a clear definition of the functioning of social dialogue, hinting at the concepts and direction the EU sees worth pursuing.
- Direct involvement of the DG Employment and Social Affairs provided support and advice for improving the structures and efficiency of policies in the areas linked to social *"acquis"* and was coupled with professional assessment of the progress. Still, the encounter with the entrenched forces and practices of avoiding meaningful social dialogue in the accession societies was a serious challenge for its work. In Estonia tripartite relations collapsed completely less than six months before the signing of the Accession Treaty in 2003.
- "Conditionality" policy was a source of dynamic changes but also stabilised the nature of the enlargement process as an intergovernmental exercise and consequently excluded the wider society. This exclusion could easily be transformed into dissatisfaction, eroding support for the process.

Enlargement happened in a time when the ESM was already questioned on its adequacy to the globalised, post-modern world. Within the EU however there have been powerful brakes – legal and the well established structures and practices of national systems for social dialogue and social protection. At the same time it is somewhat ironic that the policy of certain member states aimed at safeguarding the social area from the power of EU institutions seems to fire back in the context of enlargement. If the threat of “social dumping” materialises it will hit the national states, not the EU.

From this perspective the question of the possible erosion effect of the enlargement on ESM has to be revisited:

First, the current approach regards “social dumping” as a consequence of enlargement, i.e. if there were no enlargement, no problems would occur. The problem of Social Europe is a major strategic challenge for Europe and the effects of enlargement are the repercussions of the EU policies. Then what are the chances that it will trigger a reaction and place the social agenda on equal footing with other key policy areas where diverging actions of CEE candidates have led to reconsidering major policy approaches and institutions in the EU? Heather Grabbe from the Centre for European Reform in London has correctly described the issue (see *Gazeta Woborcz*, 5 June 2002): “We need a firmer idea of solidarity in Europe” to cope with the main challenges in an EU of 25 members. This does not refer to simple transfers from the rich to the poor but a common responsibility for a common future. Such a solidarity “starts at home”.

Second, the transformation of CEE societies was predicated on the dismantling of the old centralised, “collectivist” systems and rebuilt on blueprints coming from outside. In theory the ESM would have had a strategic advantage. But the soft status of the social “*acquis*” and debate within the EU itself had weakened the argument substantially – the primacy of the principle of solidarity was subordinated to financial considerations. In reality the only protection against social disintegration in the CEECs has been the risk of internal political crisis and the loss of power. Thus, the failure to join the EU could mark the end of a political force as a meaningful actor. This also implies that when social dialogue channels are blocked trade unions have very few formal instruments at hand to exert influence over a more balanced and socially responsible approach.

The interesting questions concern the future. Once the mega task of EU membership falls off the agenda will the attitudes of the main actors shift towards more consensual and balanced policy development? Could it be the case that the chal-

lenges of the real convergence process – European Monetary Union (EMU), investment, prices, wages – will necessitate carefully tuned solutions and sound public consensus, i.e. more social and wider civil dialogue?

2. CEE SOCIAL DIALOGUE AND TRADE UNIONS IN "TRANSITION" AND ACCESSION – THE PROBLEMATIC POLICY MIX

These topics have attracted a lot of research and lately a number of very good materials of comparative analytical nature have come out, summarising the results of the transition and accession processes (Carley 2002, European Commission 2002, Hethy 2001, *Transfer* 2003). All point to the key problem in that area – the inefficient social dialogue systems and the structural mismatches between the current and the new member systems. The key factors shaping the situation are also quite well defined – the weakness of the social partners, low coverage of collective agreements, serious decline in membership of trade unions and the evident reluctance of governments (more often political elites) to "share sovereignty" of decision making in the relevant areas, i.e. in general no real interest in developing proper channels for a representative democracy.

On that basis it is not necessary to go through these conclusions again but rather to look at the constellation of interests and the way dynamics have been generated in the context of "transition" that has shaped *the process* of social dialogue. The intention is not to provide a thorough review but to draw the attention to additional factors and conditions that will have an influence or will cease to play a role in the process after membership.

Transition/accession specificities

The overall process of change in CEE has been carried out under the slogan "No alternative". As far as this refers to the vision of the historic shift to societies based on a pluralist democracy, market economy and EU membership, involving the ESM, the statement holds true. In fact there is no important political or social organisation that has voiced rejection of the need to transform. Opposition to EU membership at the final stage of accession has been inspired by the particular terms of the deal rather than the idea itself. But in the process of realisation of this historical imperative the case of Slovenia, a clear exception from CEE patterns, suggests that there can be space for more flexible and country tailored approaches.

Yet, when the slogan is pushed through by the ruling political elite it turns into a major manipulation which shifts legitimacy of power from internal public consensus to external support it precludes the real debate on the necessary "policy mix" of the reform packages and concentrates the decision-making within a limited group. It is not by chance that the current Czech government led by the social democratic party was re-elected for a second term of office while governments defined as most successful on the reforms record by the external factors – IMF, World Bank, EU – especially in Poland and in Bulgaria between 1997 and 2001, not only had to leave office but had problems to survive as meaningful political forces. A common trajectory of government support started very high at the elections and dove down within the first 2 years. Many of these governments have been supported by trade unions at elections times and then have faced mounting problems.

Political

In this line the pattern of the political process posed serious dilemmas for trade unions, reflecting also the social dialogue development:

- The bipolar political systems. Positions or actions of trade unions can be assigned to one side or another and be interpreted as politically motivated;
- The model of reforms with a core of unidimensional policies based on neo-liberal strategies which any government had to implement (usually involving external pressure too) regardless of its place in the political spectrum. The traditional left-right identification can lead to quite misleading conclusions in the context of "transition". Some of the worst conflicts over the development of social dialogue have been with left wing parties – Bulgaria (1990, 1996/97) and Poland (2002).
- The overlapping of political and economic reforms. Newly created political parties need to build an economic base if they are to survive. The necessity to restructure and privatise the economy has provided a historical chance. In these circumstances a term in government office is a crucial period for the future of the organisation and its leading representatives. Genuine social dialogue can hardly be a channel conducive to such policies.

The Global Corruption Report 2001 of Transparency International points to a number of cases illustrating these aspects of the reform process. The Orban government in Hungary had authorised a state bank to choose construction companies and finance a US \$ 2 billion project for building motorways without public bidding. The bank gave the project to companies considered "friendly" to the ruling

Civic Party and the Prime Minister defended the deal as protecting and promoting national industry. In Poland, World Bank and the Polish Supreme Chamber of Control reported official malpractices allowing bidders to look into procurement conditions beforehand or negotiate contracts after tenders were won. Without "insiders" chances to win have been next to zero and the law itself has been contributing to such a situation. Transitional economies and societies are an extremely favourable ground for network activities and corruption but this is exactly where accession and membership can make a difference. In the Czech Republic over a dozen of leading bankers and businessmen have been charged or convicted of fraud, insider-trading or other corruption crimes in the 1990s.

These patterns of operation of the political process have put the trade unions in a situation facing two key challenges:

- Since the beginning of transition the CEE trade unions have had difficulties in finding real allies among the political parties. The usual formula of "political independence" and "equal distance from all parties" sounds good but is extremely difficult for delivering results. A couple of non-standard attempts have been made in different countries. In Poland this ended with serious problems for trade unions, in Bulgaria it is still half baked and needs time to generate results. The more classical cooperation of the CMKOS union with the Czech social democratic party has probably been the most efficient in the region. Still, this is only half of the success. The other half will become visible when the union has to interact with other political forces in power. The decision of the Czech Constitutional Court (appointed by the President) in June 2003 declared the extension of sectoral agreements unlawful, i.e. employers not belonging to the signatory organisations cannot be covered by industry wide provisions. Such an approach can create serious obstacles on the road to efficient sectoral bargaining arrangements.
- The other challenge raises the question of trade union reaction in cases of networking and shadow economy activities. Often trade unions have to represent member interests on both sides of the problem. So far no clear approach has emerged to cope successfully with securing work and wages for the workers without consolidating the social base of the "shadow economy".

Naturally, the pressure of convergence and tightening the rules and enforcement following membership will contribute to curbing the scope and impact of different types of behaviour deviating from EU standards. The extent of this effect depends on the level of mobilisation of internal public support and the depth of EU cooperation in confronting the problems.

Economic

The unprecedented scale of economic transformation and the need of convergence after membership inevitably give rise to numerous problems which have been the subject of a substantial body of research. For the current purposes a couple of key topics will be addressed.

At first "transition" implied dismantling the old centrally planned system and rebuilding it as a market based economy. The pattern of economic and societal reintegration could follow the lines of what was defined as functioning market economies, such as the developed countries which Lash and Urry (1987) have characterised as disorganised capitalism. In this sense the necessity for change and the model to implement have been mutually reinforcing each other. This orientation has been further strengthened by the policy of "no alternative" inside the society and the real lack of alternative proposals from the outside. If the new mode of operation of capitalism had shaken the foundations of the welfare state the chances of CEE societies for a meaningful social dimension in the transformation process have been rather slim.

Second, the reforms had to be implemented without the necessary resources. Especially medium and small-sized companies – the bigger part of the emerging private sector – had to operate under constantly restricted access to financial resources and consequently maintain a significant gap in productivity and value added compared to foreign companies. Compensatory policies lead towards networking of different types additionally differentiating the positions and interests of players on the same market. One of the major problems for developing sectoral bargaining in CEE is the difference between companies in the potential for adaptation and in the diverse status on the financial and product markets.

And third, as a result companies would embark most often on defensive cost minimising strategies, relying on the comparative advantages of knowledge on the local markets, established brand names, pools of available and sufficiently skilled labour to keep labour costs low. Under these conditions why would an employer need an organisation of employers or sectoral bargaining arrangements together with partners in privileged positions or foreign companies with innovative strategies and secured markets?

A PricewaterhouseCoopers (2003) study of local businesses in Central Europe provides an interesting insights into the possible effects of EU enlargement. The main conclusion is quite relevant to the discussion on social dialogue: local businesses will have to move from the current preference for strategies based on "cost

minimisation" to more active approaches aimed at "differentiation" and "innovation".

The pressure for strategic reorientation will be coming from

- the current low levels of profitability which do not allow investment to ward off international competitors;
- rising consumer incomes changing consumer demand and a trend towards more quality;
- rising labour costs through wages and the need to invest in human resource development;
- new costs for compliance with the "acquis"

These will be accompanied by a number of opportunities to cope with the challenges:

- improved access to finance for investment, previously a constraint;
- EU financial means for upgrading hard infrastructure and human resources;
- larger local businesses already complying with the "acquis" will have little additional costs.

The need to adapt to float up in the convergence current could open the action field on the enterprise level where it will be up to the actors how to use the situation. In that direction the conclusion of the study is adamant. Two threats have been clearly identified – the possibility of wage costs rising faster than productivity and the detrimental effects for companies from implementing the European Social Charter. The study draws the problem of wage growth in CEE largely on the example of Hungary; the Baltic countries have had similar situations. However the case of Hungary has been somewhat overstated since disproportionately high wage raises in the last two years have been politically motivated due to elections and have come as a surprise to the unions also. In most CEE countries wage growth has been lagging behind substantial increases in productivity, quite dramatically in Bulgaria and Romania (Galgozci and Mermet 2003, Galgozci forthcoming).

The real issue at stake is the lack of a stable and clear connection between productivity and wages. It is an area where trade union policies are still in initial stages and have space for strategic development. The second threat, coming from the Social Charter, has to be interpreted as a pre-emptive power struggle rather than a search for optimisation of company operations.

Social dialogue and trade union development

By the time of accession negotiations the process of internal erosion and hollowing the institutions of social dialogue has been quite advanced along a stabilising

culture of "shadow economy" operations. The overall record towards EU standards has not been an unproblematic development.

The negotiations have had a dual effect. On the one hand there has been the need for harmonisation with EU requirements in terms of formal and normative arrangements. On the other hand, the process has been largely an intergovernmental affair and therefore intensified the trend to undermine implementation through local practices. In a number of documents, also in the report on industrial relations in Europe 2002, the European Commission has underlined its growing concern over the general trend of the deterioration of relations and practical activities in the area of social dialogue in CEE. A powerful confirmation of the trend has been made after the closure of negotiations on the chapter of the social "acquis" by all candidates which was followed by a wave of pressure across the region to further liberalise and deregulate labour law arrangements, mainly against collective agreements. So far the results have been advances in formal terms and problematic in real life (ETUC 2002).

Coming back to Lash and Urry's theory the results would not seem that surprising. If only the deepest rooted corporatist systems could withstand the pressure of disorganisation and the weakest would face withering away in the developed world, what were the chances for CEE states with run down economies and disintegrated low trust societies under substantial external pressure in making the reforms policies? It is not surprising that in attempts to emulate western social dialogue arrangement only Slovenia was comparably successful.

The European Bank for Reconstruction and Development (EBRD) annual report for 1999 "Ten years of transition" goes even further in explaining the failures of the reforms policies; "... the central lesson of transition is that markets will not function well without supporting institutions, a state that carries through its basic responsibilities and a healthy civil society". At first glance the message "social dialogue for a free market" is somewhat paradoxical. In the world of transition is it possible to make sense of it? The first stage of transition, the liberalisation or "shock therapy" period, had clearly demonstrated the potential for that. The social dimension, market efficiency and state institutions needed to be secured against the impact of networking and corrupted activities. In these areas there is an obvious potential which the convergence process after membership may help to be put into full use.

The systems of social dialogue in CEE societies feature similar combinations of tripartite national arrangements and company level collective bargaining. These have been transferred from outside mainly with the help of the International

Labour Organization (ILO). Intermediate levels are largely missing or limited in influence.

Social dialogue was a result of political exchange in the initial period of transformation in the early 1990s. Hethy (2001) points out correctly that despite the rhetoric of social dialogue building and maintaining public consensus for reforms the real achievement has been more modest but important – maintaining social peace and providing space for the implementation of the policies.

With the close of the accession negotiations two dimensions of reality can be observed. One dimension has been shaped on the level of formal normative arrangements and pro-EU rhetoric. There appears a construction of social dialogue with relatively well organised systems of rights, structures, rules and procedures recognised by all actors and sanctioned as compatible with ESM. This forms a kind of "virtual" action field with quite wide boundaries and inclusive patterns of operation – the EU face of the system. The second dimension of reality is a shrinking action field for interaction between social partners and the state as well as the continuing loss of resources, such as members, agreements, financial equipment, expertise and a weakened public image. There is an irony in the situation stemming from the hierarchical structure of the enlargement priorities which demand that the mega task of the "EU face" should be promoted practically at all costs, at the detriment of the trade unions.

Within such pressures the process has been oscillating between the two dimensions. In that game actors can find a measure of comfort counterpoising achievements in one reality against setbacks in the other to prop up their image. This does not necessarily involve manipulation but it suggests a longer way to consolidation and efficient functioning. With the end of accession how the two will merge together.

An optimistic scenario would suggest that once the European frame is in place and the system will be engulfed by the European social dialogue arrangements and policies there will be a powerful pressure to pull the ground dimension to permeate the "vitality" and follow its EU logic and operation. The first signals (the wave for legal deregulation, the decision of the Czech Constitutional Court) point also to a different possible option. These actions however could also be interpreted as preventive moves to enter the europeanisation of CEE industrial relations with better strategic positions. The Pricewaterhouse study shows the application of the Social Charter is on the agenda and employers are thinking about it. Obviously the real process could turn out to be pretty complicated and thorny. A lot of the incentive and dynamics for CEE societies will be dependent on the resolution of the EU to

pursue its way in stabilising and developing the ESM and the way of further "dis-organisation" in CEE.

Trade Unions

The structure and operation of the CEE social dialogue reveal its time of origin and its character as a model of transition. The systems have been designed to function predominantly top-down. Most distinctive in this line have been the procedures for awarding representation to the social partner organisations for the purpose of social dialogue. Social partner organisations acquire a representative status by virtue of membership in an organisation at the higher level which has already been recognised. The highest, namely confederations, have been recognised by the government. Often recognition has been gained at the beginning of the reforms process and continued since then, in some cases "by default".

A great deal of the heat around the debate on workers' information and consultation rights at company level and the trade unions' hostility towards works councils derive from similar arrangements. The current systems are of an encompassing nature and have not been designed to share space with other channels of representation. Works councils presuppose elections and thus provide a clear source of legitimacy of organisations anchored in the base; this may lead to a second centre of power at the bottom of the current system. It will exert pressure on the reorientation of dynamics and power: not only top-down but also bottom-up. With the missing intermediate link in the system the process can give rise to problems and internal tensions on the trade union side. The weakness of the trade unions and decline of the efficiency of the social dialogue inevitably render the threats more probable.

The weakness of CEE trade unions lately has been often the subject of analysis in the study of industrial relations. Most often the explanations have been derived from the interaction of three perspectives:

- The influence of the legacies of the centralised planned system. According to one of the latest publications (Crowly and Ost 2001), the stress has been laid on the atomised nature of the "socialist" workforce, the lack of collective and class identities, the lack of culture of collective actions and a tradition of coalitions with managers against "the plan". Obviously this is a bad starting position to build a European Social Model in the face of a "mode of disorganisation" and "transition". The approach however leads to the impression that the failure of trade unions seems predetermined since they have been unfit for direct actions in promoting everyday "economism".

- The second has been focused on the complexity of the reform process and the limiting depressive impact it has exerted on the development of the social dimension in CEE, shrinking the space for strategic choices and actions of the trade unions. At the same time the scale and scope of change and EU accession necessitate public consensus, so in real life trade unions had to face difficult trade offs in which more often than not they have been in weaker positions.
- The third focuses on the mismatch of the product of "transition"/accession with the established systems and practices in the EU and poses the question of the fate of the ESM for a common future.

Some considerations of the second approach have been widely used in the current text. The first would need further adjustment to be really operational in the contexts of both the old "socialist" society and the "transitional" restructuring. While workers have been alienated from trade unions other informal systems, run on a network basis, have been put into place to cope with the relations and problems of work and life. Networks have been operating on all levels – from individuals to state structures – compensating for the lack of market and state. As such they have been transferred into the "transition" period (Sik, 1994, 1995; Stark, 1997) and provided organisational base for the "shadow economy". Such factors too often have been securing "exit" options for workers and naturally weakening the necessity for a "voice" (Hirschman, 1970) in the old system.

The advent of democracy and market reforms opened the action field to more "voice" policies, but without weakening the "exit" one. A survey on unregistered employment in Bulgaria in 1996 found that 35 per cent of the employed had a second job and every tenth worker was receiving money "in hand". Only 8 per cent of the unemployed have been involved in such employment (Hristoskov et al 1996). Another indicator, although an indirect one, is the share of wages in household incomes in CEE. It would hardly reach 50 per cent in the transition period and is still below that in many cases.

Such phenomena have been coexisting along the generally solidaristic approach to which the unions tacitly agreed, accepting lower wage growth in exchange for jobs preservation. Once membership had become voluntary the people did not leave the trade unionism immediately, more often they first shifted to other union organisations.

So the interests of the workers at the base have been driven by diverse often confusing sets of strategies for survival and adaptation. Trade unions and social dialogue have been playing a key role but were not necessarily the most efficient

in all situations. Probably the problem has to be assigned primarily to individual trade unions and not to the general idea of trade unionism.

The period witnessed a variety of obvious achievements in developing new systems of industrial relations, first and foremost the result of union efforts. Still, the trajectory of trade union power and efficiency has been declining over the years. At the beginning of the transformation period trade unions could often be seen in the role of agents of change, resulting in numerous agreements on national levels, guaranteeing social peace and space for the reforms to unfold. These practically have not been repeated at later stages despite of the positive development of the transformation process.

Gradually trade unions have been positioned more as recipients of policies, engaged with compensatory and adjustment strategies, they have become managers of the negative outcomes of the changes. Rarely were they connected to innovative approaches.

Finally the nature of the organisations has been shifting over the years. Some of the crucial internal blows on the old system have been delivered by trade unions acting as powerful social movements – Solidarnost in Poland, Podkrepa in Bulgaria. They introduced new dynamic approaches to trade unionism. In the course of the transformation this potential has been melting under the pressures of the reforms and organisations have been increasingly streamlined which has brought a more professional and bureaucratic behaviour as well as a widened distance from the base. In some cases traces are evident of the operation of key elements of Michels' iron law of oligarchy.

These observations are not intended to simplistically point to a necessity for democratisation of CEE trade unions but rather to underline their complex internal structure and functioning. Entering EU structures and rules and the completion of reforms may be expected to stabilise interest formation and their coordination at different levels – a chance for trade unions to reinvigorate their nature and activities.

3. CONCLUSION

The analysis of important elements of the "transition" and accession of CEE societies into the EU shows that the process involves a web of interactions between forces and interests promoting social dimension and a counteracting one in both the current EU members and CEE candidates. In the EU there has been a tendency

for Social Europe to be assigned a more prominent role and to be embedded in new structures, although not always fully backed by the political actors. CEE societies have witnessed dramatic changes; industrial relations and social protection have been deeply transformed but the solutions implemented have often been diverging from the EU philosophy and standards. There is a clear deficit of policies in the new member states insufficiently promoting the key principles of solidarity and social dialogue. The overall completion of the reform process and the adjustment to EU standards can open a new "action field" for the promotion of trade unionism and social dialogue.

To this end the Working Group on Social Europe at the European Convention (2003) has underlined that the future Constitutional Treaty should provide a sound legislative base for the welfare state and has rejected the "artificial opposition of economic and social objectives in European policy or any arbitrary hierarchical order between them". Even more "the EU cannot be a credible force in the wider world if it is indifferent to questions of social justice and poverty in European society or to how its citizens are treated at work and in retirement".

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PATHS TO GLOBAL SOCIAL REGULATION – WHAT CAN AMERICANS LEARN FROM THE EUROPEAN UNION?

For American proponents of global justice, social Europe appears distant yet inspirational, with all its weaknesses still a “vanguard” model for the social regulation of the global economy. We believe that a great deal can be learned by other countries, regions and the global economy as a whole from the ongoing experience of European economic and social integration. We also believe, however, that American experiences with NAFTA as well as with contemporary labor movement revitalization and coalition building offer positive lessons for Europeans and other actors in the global North and South.

As much as we admire the European model, therefore, we also believe that (1) there is room for mutual learning, and (2) lessons can be learned but models cannot be transferred without significant adaptation. The road to a social America or social global economy lies not in adoption of the European model but rather in the politics of contestation. Just as the limited EU social dimension is possible only because European unions and governments have fought for it, a stronger social order for the global economy as well as regionally in the Americas will only come with pressure from revitalized interest groups and social movements.

The current rise of social protest, from Seattle in 1999 to worldwide antiwar mobilizations in 2003, provides reason to hope that transformation forces are gathering – forces that among other things can credibly demand stronger labor and social standards in the U.S., Europe and throughout the global economy. Labor unions and the coalitions for social and global justice in which they participate are the decisive actors in contemporary possibilities for social transformation.

The currently hot “varieties of capitalism” literature makes important contributions to understanding cross-national differences in economic strategy, welfare state policy, and the contrasting capacities of governments, firms and unions (Hall and Soskice 2001). There is, however, a fatalistic bias toward the following conservative orientation: if you have the institutions of a coordinated market economy (CME), especially one with strong unions, you are fortunate and can sustain strong

social policies and partnership at the national level, even against persistent corporate attacks for “labor market rigidity” and excessive social benefits. For decades, the New York Times and the Washington Post have run yearly features predicting disaster for the German economy because workers are too protected (Landler 2003 for the latest; entering “Germany” and “labor market rigidity” in the Lexis news database yields 475 citations in the U.S. press going back to the beginning of electronic news archives).

At least a soft social dimension prevails in a Europe that happens to include several such CME’s. If you don’t have such institutions already in place, however, you are simply out of luck. This is the case for unions in the U.S., U.K. and other liberal market economies (LME’s), heroically but also rather hopelessly pursuing greater influence in the political economy and at the workplace (Thelen 2001). We disagree: just as mutual learning is possible among social dimensions and their labor union proponents, so are modern labor and social movement mobilizations aimed at reforming institutions, from the U.K. and Italy to Brazil and the U.S.

Comparing Strengths and Weaknesses

If we look at American and European paths to global social regulation as a contest for which path is best for workers’ rights, Europe wins. But strengths and weaknesses emerge in both systems. Our challenge is to learn from them and move toward a strengthened global labor rights regime. Our analysis can be summarized as follows:

- 1) The North American Free Trade Agreement (NAFTA) and its labor side agreement are deeply flawed.
- 2) In comparison, Europe’s social dimension is robust.
- 3) Not so fast. The EU’s efforts at social regulation have flaws, too. The European social dimension is weakened both by the internal opposition of business and governments, and by the contradictions of vanguard social integration in a global economy.
- 4) In any event, we cannot simply import the European model. Instead, Americans can and should learn from Europe’s experience, adapt the lessons to our own circumstances, and draw on our own strengths to recast social regulation – in the U.S., in our hemisphere, and in the global economy.

NAFTA Flaws

The social dimension of North American economic integration is thin. NAFTA is primarily a commercial agreement giving lucrative privileges to multinational firms, banks and investors. NAFTA negotiators assumed that free markets in trade and investment automatically bring more growth, development and jobs, with no need for consciously building social justice or sustainable development into the architecture of regional commerce. To take a single obvious example, NAFTA negotiators refused to address labor migration in the agreement, in contrast to the EU's freedom of movement for workers.

After ten years, this "trickle-down" strategy has failed. NAFTA has had profound social effects, negative for many workers and positive for many elites. Many firms use NAFTA as a club to beat down wages and working conditions in all three countries. (Bronfenbrenner 2000). Mexican workers' real wages have declined overall, while Mexico's vulnerable agricultural sector is about to be devastated by the final phase-out of protections against the at once more efficient and highly subsidized agricultural exports from the United States. (Scott, Salas and Campbell 2001; Jordan and Sullivan 2003). Millions of migrant workers from Mexico continue to suffer low wages, poor conditions, and widespread discrimination in the United States (MALDEF and NELP 2003).

NAFTA, in other words, is deeply flawed. This is so because American multinational corporations have resisted any effective social dimension, from minimal labor and social standards to environmental protections, and the three NAFTA governments bowed to their pressure. (Cameron and Tomlin 2002, citing Mexican government officials scoffing at the labor side agreement).

In the face of MNC dominance, labor and environmental movements in the three countries have not yet become strong enough, as a combined force, to demand a viable social dimension that would include such standards and protections. While we believe MNC and government perspectives are short-sighted, even for the medium and long-term interests of business, unions and their allies have not fully coalesced around a viable and persuasive alternative vision for regulation of the North American (not to mention global) economy.

Rather than an integral social feature of the trade agreement, the North American Agreement on Labor Cooperation (NAALC) is a "side agreement" to NAFTA. Divorced from the agreement itself, the NAALC has no grounding in treaty law or other binding norms.

The NAALC does not create supranational standards for treatment of workers. It does not trigger a dynamic of "upward harmonization" of labor standards.

Instead, the three parties to the agreement reserved sovereign power to set and to change labor standards. The countries committed themselves to "effective enforcement" of those national standards, whatever they are, not to trilateral or international norms.

The NAALC defines eleven "labor principles" covering rights to organize, to bargain, and to strike; elimination of forced labor, child labor, and discrimination; and guarantees of workplace health and safety, minimum wages, and migrant worker protection. Seen in the best light, these principles amount to an implicit "charter of rights" for workers in North America. But this "charter" is a statement of values, not a statement of law. Violations of NAALC principles do not give rise to enforceable action in national legal systems.

The NAALC makes a peculiar division of its labor principles into three groups with different treatment. Freedom of association complaints can be taken up by ministerial consultations, but no more. Forced labor, discrimination and migrant worker cases can proceed to independent committees of experts empowered to make nonbinding recommendations, but no more. In three areas – child labor, workplace health and safety, and minimum wages – complaints over failure to enforce national laws can come to an arbitral panel that can fine the offending government. If the fine is not paid, the arbitral panel can impose trade sanctions against a violating company or sector of industry.

The NAALC created no serious institutional role for what Europeans call the social partners, representatives of peak trade union and employer organizations. They hold seats on NAALC advisory boards that are largely inactive and receive invitations to NAALC conferences that have no follow-up in policymaking or implementation.

On the trade union side, Mexican and Canadian labor movements hesitate to commit themselves to close collaboration with the AFL-CIO and U.S. unions. Mexicans remember an unsavory history of interventionism on behalf of U.S. government foreign policy. Canadians recall a relatively conservative, business union approach to collective bargaining in the United States. Even the more progressive, solidaristic, social-unionist approach of the AFL-CIO under John Sweeney has not fully overcome Mexican and Canadian suspicions.

Cross-border collective bargaining does not exist except in unusual contexts like professional sports. The once-unified U.S. and Canadian autoworkers union and its international collective agreements broke apart in the 1980s. The Inter-American Regional Workers Organization (ORIT), the regional equivalent to the ETUC, is a faction-ridden body so far incapable of having real influence in NAFTA or in hemi-

spheric trade negotiations. Even if the ORIT were more cohesive, there is no NAFTA headquarters location akin to Brussels where ORIT could systematically intervene in NAFTA affairs.

On the management side, there is no NAFTA definition of a "North American Company" with regional obligations. There are just national companies active on a multinational scale and guaranteed "national treatment" by the three governments, automatically benefiting larger, more powerful American multinationals.

The NAALC created a forum where trade unions in the three countries could shape new forms of collaboration bringing complaints to the labor ministries of the three countries. Of some thirty cases, most have involved governments' failure to enforce laws protecting freedom of association. Other cases addressed discrimination, migrant worker protection, workplace health and safety, and minimum wages.

Presenting these complaints had the positive effect of promoting new forms of cross-border solidarity among unions and NGOs in the three countries. (Compa 2001). However, the governments shrank from any real enforcement in these cases. Ministerial consultations led to conferences and research reports, but no discernible improvement in labor law enforcement. Despite several opportunities, the countries have never established an independent committee of experts or an arbitral panel. This was as true of the Clinton and Zedillo administrations as it is now of the Bush and Fox administrations, and the Bush administration's Department of Labor has virtually shut down its application of the NAALC.

EU Strengths

Compare this glass-mostly-empty assessment of the North American model of social regulation in a regional economic arrangement to what appear to be, from our side of the Atlantic, a mostly full glass in the European model:

- European integration is deeper and broader than North America's. NAFTA did not produce a North American commission, parliament, or court of justice; these features of the European Union create a strong institutional framework to address social issues.
- The EU has carried out extensive programs of economic assistance to less-developed member states, especially benefiting Ireland, Greece, Spain and Portugal, and soon to benefit the eastern accession countries.
- The EU has adopted far-reaching social charters, most recently the Charter of Fundamental Rights of the European Union accepted at the Nice summit in

December 2000, containing extensive statements of basic rights and protections for workers.

- The EU is empowered to adopt supranational directives, including those on workers' rights and labor protections. Several member states have had to change national law to conform to EU labor directives. The prospect of the United States Congress changing national labor law in response to orders from a supranational authority is beyond comprehension.
- The EU establishes a strong institutional role for the European Trade Union Confederation (ETUC) in which trade union and management groups are empowered to negotiate framework agreements on labor-related directives; and the EU is authorized to impose the terms of a directive if the social partners fail to reach agreement.
- The European Works Council (EWC) directive creates cross-border relationships between trade unions at large European firms, launching new pressure toward transnational collective (or at least coordinated) bargaining.
- The ETUC has a solid institutional (and physical) presence in Brussels to deal with the Commission and related bodies. As with any trade union grouping, divisions exist in the ETUC, but there is still a common mission to defend Europe's social welfare model against the U.S. free market model.

All of the above are possible because European unions have been strong and influential at the national level in many countries, because they have been well anchored in institutions of social partnership (from tripartite forums to plant-level works councils), and because they have consistently but critically supported European integration and its social dimension (Martin and Ross 1999; Turner 1996; Visser 1999). To make the argument in simplest terms, social Europe is more substantial than social America because on the whole European unions are stronger and more politically influential -- and they have coalesced across national boundaries in critical support of economic integration, informed by at least a germinal vision of a social Europe (Dauderstädt 2001; Mückenberger 2001).

Not So Fast

Experts know that while the EU's social dimension is robust compared with that of North America, it has weaknesses. The Council still runs the European Union; the roles of the Commission, Parliament and Court are limited. Enlargement to the East will not bring the same levels of economic assistance to less developed countries as those granted to earlier new members.

The Nice Charter is not an integral part of the treaty. The question is still unsettled whether it creates "law" that will be enforced by national courts or the ECJ, or whether it is just another statement of good intentions with no force behind it. (Bercusson 2002). Even where EU directives are binding, enforcement is often less than swift and tough; witness how many years it took France to obey a Court of Justice order to remove its national law prohibiting night work by women.

Like the NAALC, the Treaty of Amsterdam creates three "tiers" of labor rights. Binding EU directives can be adopted by qualified majority support for some matters, which tend to be softer, less controversial ones like health and safety or information and consultation. Unanimity is required for harder issues, such as social security and termination of employment contracts, where that a single country can veto a directive. Three critical issues are totally "off the table:" pay, the right of association, and the right to strike and lock out. EU countries have reserved complete national sovereignty over these subjects.

The ETUC has not succeeded in convincing UNICE, the counterpart employer organization, to engage fully in framework bargaining except in relatively easy cases like parental leave and part-time work, where they can agree on least-common-denominator rules. Where the Commission steps in, it is often with watered-down directives solicitous of employer interests. At the end of the day – and often by noon -- free market values and interests trump social concerns in the EU system.

European works councils have moved only haltingly toward a transnational bargaining framework. For one thing, EWC's are only entitled to information and consultation, not bargaining. Many European companies are happy to tell their EWC representatives how dire the competitive situation has become and why worker demands must be restrained. Some even use the EWC system to bypass trade unions and deal with councils dominated by office employees and midlevel managers (HBS 2001). Many EWC annual meetings devolve into separate demands from national delegates that management keep jobs in their country.

The ETUC is understaffed and underfunded (Turner 1996). National trade unions, employers and governments operating in deeply embedded national labor markets and collective bargaining frameworks, not cross-border bodies in a Europe-wide system, are still the major actors in European industrial relations. While the regional and international orientation of European unions is more developed than that of American unions (or unions in other parts of the world), national institutional focus thus continues to weaken what has been and can be accomplished at the European level (Visser 1999; Martin and Ross 1999).

Finding a Balance

From a North American perspective, the strengths of the European social dimension still far outweigh the weaknesses, especially contrasted with NAFTA and the NAALC. The next challenge for labor rights advocates in the United States comes with accelerating negotiations on the Free Trade Agreement of the Americas (FTAA). Right now, the trade union demand is to stop the FTAA. But some form of hemispheric economic integration plan will ultimately take shape. In this context, U.S. trade unionists and allies should aim at preserving and strengthening positive elements of the NAALC while overcoming its main flaws. Drawing lessons from the EU social dimension will greatly help this process. So will drawing on positive elements of Mercosur's Social-Labor Declaration, a South American counterpart to the NAALC.

The 2002 victory of Luis Inacio da Silva (Lula) of the Brazilian Workers' Party creates a new context with greater potential for progress on a social dimension in hemispheric integration. Brazil and its Mercosur partners agreed on a Social-Labor Declaration in 1999 with several elements that should go into a "mix" of social models, along with lessons from earlier North American and EU experiences. Among these are tripartite sectoral bodies taking up matters of concern to workers in trade-related industries. Applying this model to the hemispheric scale could trigger a North American model of cross-border engagement akin to that triggered by the EWC directive.

Here are other examples of elements of a social dimension with positive features from North American, European, and Southern Cone initiatives

- Labor rights should be integral to a hemispheric trade accord, not a side agreement. If Europe succeeds in integrating the Nice Charter into the Treaty, Americans should demand no less.
- The NAALC labor principles, perhaps enhanced by norms in the EU Charter and in Mercosur's Declaration not mentioned in the NAALC, such as information and consultation as a basic right of all workers, should become binding supranational standards like EU directives.
- Any hemispheric social dimension should contain a vibrant complaint system backed up by sanctions against countries or companies that violate workers' rights. Unions should build their cross-border institutional structures to take advantage of complaint mechanisms, as with the ETUC and the Mercosur's trade union coordinating body.
- Like the European Court of Justice, the Inter-American Commission and Court of Human Rights should be empowered to consider and remedy workers' rights violations.

- A strong institutional role like that of Europe's social partners and trade unions in Mercosur's tripartite bodies should be built into a social dimension of the Americas for trade unions and other civil society actors.
- A well-funded permanent research and oversight body should take shape in any hemispheric trade and labor arrangement. Here the EU's European Industrial Relations Observatory (EIRO) is a valuable model, producing extensive, important research on a continuing basis, using its own team of staff experts and contracting widely with experts around Europe. Similarly, though it is still on the drawing board, Mercosur envisions a social-labor Observatorio to monitor developments and produce reports and analyses on workers' rights in member countries.

What You See Is What You Get

Ultimately, the gains in labor and social standards incorporated into a future plan for hemispheric integration will depend on the revitalization, coalition building and political influence of unions, working together, in North and South America alike. With Lula in power in Brazil, with labor and environmental groups continuing to mobilize around trade agreements, even after the defeat on "trade promotion authority" (fast track by a new name), there are conceivable openings for a social dimension in the Americas.

The U.S.-Jordan trade agreement, for example, negotiated in the waning months of the Clinton administration, included the AFL-CIO and Sierra Club in policy-making processes and yielded meaningful labor and environmental standards (and enforcement mechanisms) in this small but example-setting agreement. The Jordan agreement created a template for future linkages of trade and workers' rights. (Polaski 2003).

While the European social model cannot be transplanted to the United States, to NAFTA, or to a new hemispheric trade regime, underlying values and lessons can inform American efforts. The EU shows what is possible in today's global economy, and it is inspiring to see that European unions are convinced they can make more gains in the future. For American unions, in a liberal market economy that provides only weak institutional protections for labor, the essential element in the promotion of a social dimension – for North America, for the hemisphere and for the global economy – is greatly expanded future political power. And such power is possible only through labor movement revitalization and the broadest coalition efforts, local, national, regional and global.

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Thobile Yanta

THE AFRICAN UNION, THE NEW PARTNERSHIP FOR AFRICA'S DEVELOPMENT AND REGIONAL INTEGRATION IN AFRICA: ANY LESSONS FROM THE EUROPEAN UNION?

1. INTRODUCTION AND BACKGROUND

The issue of regional integration in Africa has been a subject of debate for some time. Political leaders and progressive academics provided various suggestions of how Africa should be unified. The struggle against slavery, colonialism and apartheid in Africa gave further impetus to the subject of regional integration. Political leaders such as Nkwameh Nkrumah of Ghana and Julius Nyerere of Tanzania argued that the political and economic unity of African countries was the very essence of independence. These leaders identified the colonialists' strategy of divide and rule as a stumbling block to the unity and integration of the continent. The existence of 'unity blocks' such as the Casablanca Group and Monrovia Group in the 1950s demonstrated the tricky nature of attempting to develop a common political and development agenda in a deeply divided continent. The formation of the Organisation of African Unity (OAU) in 1963 was regarded as a key achievement and a stepping stone towards realising unity in Africa. From the very first post-colonial meetings, African leaders emphasised regional integration as one of the key elements of a post-independence strategy. The idea of regional integration was regarded as a means through which African countries would 'pool their economic sovereignty' in order to improve the living standards of their peoples and to extend the struggle for political decolonisation into one for economic decolonisation.

Other continental programmes such as the Lagos Plan of Action (LPA) in the 1980s also advocated regional integration as central to the socio-economic development of the continent. For instance, member states' views were that setting-up infrastructure such as transport and communication facilities would facilitate the promotion of intra-and extra-African trade. African countries recognised that

regional cooperation in areas such as developing regional institutions, capital markets and research institutes, tackling common environmental issues, controlling infectious diseases as well as preventing, managing, and resolving conflict is important for Africa's growth and development path. In an increasingly integrated world, there was also a gradual realisation among African states that sub-regional and regional groupings provide higher visibility to global investors, promote cross-border trade and investment, and reduce production and marketing costs.

The aim of this paper is to examine the regional integration and its development implications in Africa. More specifically, how the New Partnership for Africa's Development (NEPAD) and the African Union (AU), as Africa's premier institutions, are making a contribution or lack thereof, to regional integration in Africa and examine whether or not Africa can draw any lessons from the EU's experience of regional integration.

Regional integration in this paper refers to the unification of neighbouring states working within a framework to promote free movements of goods, services and factors of production and co-ordinate and harmonise their policies. This might involve convergence of trade, fiscal, debt management and monetary policies as a prelude to integration. It also refers to a process and a means by which a group of countries strive to increase their levels of welfare: reduction of poverty, indebtedness, conflicts, wars, economic and political malaise (Lee 2002). Regional integration recognises that partnership between countries can achieve these goals in a more efficient way than unilateral or independent pursuance of policy in each country. For instance, in Africa, one of the primary aims of regional integration was to promote development among African countries as well as help reduce indebtedness and dependence on western countries.

2. OBJECTIVES OF REGIONAL INTEGRATION

Regional integration is generally regarded as having other potential opportunities such as expansion of trade, pooling resources for investment, enlarging local markets and contributing to industrialisation. Those who advocate regional integration also view it as a potent strategy for accelerated economic growth, poverty reduction and lessening of conflicts. It must be stressed that regional integration in Africa is primarily, but not exclusively, economic. While there was always hope that regional integration would increase the economic bargaining power of African countries, it was also regarded as a political project aimed at increasing

their political influence and ensure peace and stability in the region. Where regional economic organisations in Africa did have any significant impact on relationships, this was more likely to be in the field of security than of economic development. The intervention of Economic Community of West African States Monitoring Group (ECOMOG) in the civil wars in Liberia and Sierra Leone is sometimes cited as an example of a collective regional action by African states (Clapham). Mechanisms for dealing with raging wars and perpetual conflicts in the continent were among the primary missions of the OAU. The improvement in the political climate in the region i.e. peace and stability was regarded as fundamental for creating the right environment for sustainable economic development. These are also the values that NEPAD is currently using to 'market' Africa to the rest of the world.

According to Keet (2002) some of the strategic aims and objectives of African unity are well detailed in various policy documents and debates. These include:

- The significant need to remove the artificial lines drawn across the continent by the colonial powers that randomly cut across societies, 'ethnic' groups and even families, and indifferent not only to common linguistic and cultural spheres, but also natural ecological zones and ecosystems, and pre-existing economic and political systems and relations on the ground in Africa. Africans needed to create appropriate institutional frameworks and political means and modalities to counter and undo the divisive and de-stabilising effects of such imposed patterns. In this regard, it was necessary to regroup the huge number and multiplicity of arbitrarily created, frequently economically unviable and environmentally unsustainable countries in Africa, which include many that are small in territory and/or population and partly or totally landlocked. Instead, they needed to be combined within wider, more natural and sustainable ecological zones, realistic and rational economic entities reflecting the real and potential inter-linkages on the ground, or at least within potentially more viable and effective regional groupings or communities of nations and peoples.
- Important possibilities are provided within such regional groupings for collectively formulated and negotiated joint programmes to address the uneven resources and imbalanced relations within and between stronger and weaker, larger and smaller economies in Africa, and oriented towards a more balanced, just, stable and mutually beneficial development. This is particularly important between closely interlinked countries where uneven development or under-development of some to the advantage of others has often been deliberately engineered by colonial authorities and corporate interests, and particularly by

the apartheid regime in South Africa and in relation to the rest of Southern Africa.

- The mobilisation of the huge developmental potential in the combined or complementary natural resources, human, financial and technical means within larger groupings of countries, with joint cross-border infrastructural and production programmes, will also contribute to increased intra-regional trade within larger regional markets. These together will provide the basis for more internally integrated and multi-dimensional, multi-layered, and more self-sustaining economies that are, thereby, less deeply dependent upon external economies and external resource inputs, and less extremely vulnerable to manipulations by external economic forces and shocks emanating from the international economy.
- The greater economic potential and political advantages in joint external trade strategies and more effective collective engagements in multilateral trade negotiations (such as with the EU over the Cotonou agreement) will also reduce the possibilities for outside agencies to play African countries off against each other. There is also the proactive potential in forming larger and more effective negotiating blocks, to enter into strategic and tactical alliances with similar regional blocks and countries elsewhere in the South (in the WTO for example), in order to resist big-power bullying, and be better positioned to challenge and even change the terms of the global system.
- The overall strategic potential in relation to the global economic system resides in the possibilities to utilise such stronger economic/political regional entities as effective bases for strategic engagement within – or for judiciously designed relative de-linking and/or transitional disengagement from – the international/global economy. Such larger regional bases and political frameworks could provide the economic, political and even legally recognised ‘space’ within which to create and implement diverse development programmes, through multilaterally designed and negotiated processes, and within time-frames appropriate to the specificities of the internal needs of the respective participating countries and communities.

More than any other region in the world, Africa has a strong case for pursuing regional integration. Studies conducted by the Economic Commission for Africa (ECA) and the World Bank have found that Africa is still the most subdivided continent in the world: "At least 165 borders divide 51 countries. The average African country has the same economy of a typical American town of 60 000 people. In Sub-Saharan Africa, there is one phone line per 200 inhabitants (excluding South

Africa); less than one in five Africans use electricity; there are more internet connections in New York City than in Africa; and only 16 percent of the roads are paved" (Akukwe 2002).

The formation of the Europe Union shows that regional integration substantially improved the economic performance of the smaller countries like Belgium. These small European economies today register much higher productivity rates, are highly competitive, and command a more effective market share than the whole of sub-Saharan Africa.

Regional economic integration is already attracting a lot of attention in the developing world, and attempts are currently under-way to either revamp dormant regional groupings, to breathe new life into weak ones or to build new ones altogether. Nearly all the countries constituting the membership of the WTO have concluded Regional Trading Agreements (RTAs) with other countries. In the period 1948-1994, General Agreement on Tariffs and Trade (GATT) contracting parties notified 108 RTAs relating to trade in goods, of which 38 were enforced in the five years ending in 1994 (African Development Report 2000). Every continental region has a least one major integration movement. Examples of global and regional integration includes European Union (EU), Association of South East Asian Nations (ASEAN), the European Free Trade Association (EFTA), European Economic Area (EEA), Central European Free Trade Association (CEFTA), North American Free Trade Agreement (NAFTA), South American Free Trade Area (SAFTA), Andean Common Market (ANCOM), Asia Pacific Economic Co-operation (APEC) and MERCOSUR. Africa has, since the colonial period, had several regional experiments, such as the East African community (EAC), the Central African Federation (CAF), and the Southern African Customs Union (SACU). More regional groupings emerged after independence, the most prominent being the Economic Community of West African States (ECOWAS -1975), the West African Economic Community (WAEC -1966) which became the West African Economic and Monetary Union (WAEMU -1994), the Southern African Development Coordination Conference (SADCC -1980) which is now the Southern African Development Community (SADC-1992), and the Common Market for Eastern and Southern African States (COMESA).

Globally, economic integration has taken various levels and assumed many forms. These can be summarised into:

- **Free Trade Area:** members remove tariff and other barriers to international trade among themselves and may establish its own trade policies with non-member countries.

- Customs Union: Members adopt free trade area policy and may adopt common trade policies towards non-members.
- Common Market: Members establish a customs union policy and eliminate barriers that restrict movement of factors of production among themselves.
- Economic Union: Members develop a common market policy and fully integrate their economies by co-ordinating their economic policies.
- Political Union: Members incorporate both political and economic integration, the union effectively transforms itself into one country.

While regional integration in Africa has also taken different forms to accommodate the changing national, regional and international environment, all organisation that integrate regional economies have adopted market integration as a component of their strategy, with a view to increasing intra-regional trade. Lee (2002) defines market integration as a linear progression of degrees of integration beginning with a free trade area or in some cases a preferential trade area and ending up with total economic integration. However, critics have questioned whether market integration in Africa not part of the problem as opposed to a solution. For instance, McCarthy (cited in Lee 2002) contests that instead of market integration, regional economic organisation in Africa should focus on regional co-operation, with market integration as a future goal. At this stage of its socio-economic challenges, there is a need for Africa to maintain a balance between market integration and development integration.

3. HAS AFRICA BENEFITED FROM REGIONAL INTEGRATION?

In Africa, efforts towards regional integration have not yielded the desired results because of a number of factors, although some have done better than others. According to Pangeti (1997) the reasons for this poor performance include the following:

- the wide economic development disparities inherited from the colonial era (Kenya in EAC and Zimbabwe in CAF),
- the fact that the economies are largely competitive rather than complementary, due to the inherited (colonial) duplication of commodities. As such, intra-regional trade in Africa has remained very marginal (5% in the case of SADC, and 7% in WAEC). The total intra-Africa trade accounts for only 12% of Sub-Saharan exports, up 8% from 1989. Africa trails other regions in this particular

area: Western Europe (72%), Eastern Europe (46%), Asia (48%), and North America (31%);

- institutional weaknesses, such as transport problems, weak marketing networks, banking and monetary problems among member states;
- fear among smaller states that the larger would dominate (e.g. South Africa within SADC, Kenya in EAC and Nigeria in ECOWAS);
- political instability, lack of political commitment to the integration process, and existence of old rivalries, and
- the duplication of effort through the creation of too many groupings with no logical justification.

It can generally be concluded that regional economic integration in Africa has been a failure to date, in terms of:

- to achieve meaningful economic growth and development,
- to restructure and diversify the economies and promote industrialisation, and
- to improve the scope of intra-regional trade and to diversify exports and export markets

4. NEPAD, AU AND REGIONAL INTEGRATION

The New Partnership for Africa's Development (NEPAD) as the most recent African development initiative also regards the issue of regional integration as one of the key mechanisms to solving Africa's problems. Regional integration is seen as one of the fundamental ways of terminating Africa's exclusion from "the malaise of underdevelopment and exclusion in a globalising world [paragraph 1]." The NEPAD document also states that "the objective is to bridge existing gaps between Africa and the developed countries so as to improve the continent's international competitiveness and to enable her to participate in the globalisation process." NEPAD, at various points, touches on many of these aims and the motivations for African cooperation and integration outlined above. These include the observation that "most African countries are small both in terms of population and per capita income" [paragraph 93]; the need for Africans "to pool their resources and enhance regional development..." [Paragraph 94]; and the importance of "the provision of essential regional public goods, such as transport, energy, water, ITC, environmental preservations, disease eradication, regional research capacity..." [paragraph 95].

The decision taken by African countries to form the African Union (AU) and its social and economic recovery plan, NEPAD is a recognition that after many decades

of economic and political planning, Africa has not made much progress in the implementation of earlier development plans. With the overthrow of apartheid in South Africa, there was increasing realisation that something needed to be done to inject new spirit into African development programmes. The use of phrases such as the "African Renaissance", the "African Century" and the "Africa's time has arrived" are just some of the innovative ways used in an attempt to change the doom-and-gloom perceptions about Africa. Various meetings that occurred between the NEPAD crafters and the IMF, World Bank, EU, G-8 were also designed to deal with changing the negative perceptions about Africa. What distinguishes NEPAD from the past African development plans in many respects, is that its crafters view the partnership between North-South and South-South as fundamental to achieving much-needed socio-economic progress in the continent. As a way of seeking to stop the "marginalisation of Africa" from the global community, NEPAD recognises globalisation as a force that has a direct bearing on the development path of developing countries such as those in Africa. The general requirement of globalisation is that countries should become part of international rules and regulations i.e. multi-lateral system of governance. Specifically, this requires increased discipline by governments to maintain sound and consistent macro-economic and structural policies. In this vein, NEPAD seeks to move away from "closed regionalism" to a more open model. Many of the trade blocks that were formed between developing countries in the 1960s and 1970s were based on a model of import-substituting development, and regional agreements with high external trade barriers were used as a way of implementing this model (Schiff, A and Winters A.L 2003).

President Thabo Mbeki of South Africa and president Olusegun Obasanjo of Nigeria were particularly key to ensuring that Africa does not vanish from the "radar screens" of the Western world. Ironically, it is these kinds of extensive consultations that have landed NEPAD into criticisms that it is more accountable to the Western-oriented institutions and governments than to African constituencies. These African leaders though have been quite adamant that in order to succeed, Africa needs to open up and seek to learn from the successful economies such as those from the EU. In many ways, the project of the AU was aimed at taking over where OAU has left off, though few but significant adjustments had to be made. For instance, unlike the OAU, the founding Constitutive Act of the AU states that governments that come to power by undemocratic means will be suspended and subject to sanctions. The AU also has the power to intervene in the internal affairs of member states to deal with war crimes, genocide, and crimes against humanity.

The quest for unity, poverty eradication, economic and social development is also regarded as key factors behind the establishment of the AU. Its formation is attributable to the arguments by the key players within Africa that continental organisations should be restructured to ensure their efficient functioning and to reflect the needs and demands of Africa in the 21st century.

The vision for AU is summed up as followed:

- Promotion of accelerated socio-economic integration of the continent, which will lead to greater unity and solidarity between African countries and peoples.
- The AU is based on the common vision of a united and strong Africa and on the need to build a partnership between governments and all segments of civil society, in particular women, youth and the private sector, in order to strengthen solidarity and cohesion amongst the peoples of Africa.
- As a continental organization it focuses on the promotion of peace, security and stability on the continent as a prerequisite for the implementation of the development and integration agenda of the Union.

5. CAN THE AU AND NEPAD DRAW ANY LESSONS FROM THE EU?

In many ways, it is rather unfair to compare Africa's experience of regional integration with that of the EU because of different levels of economic development, divergent historical and socio-political experiences. The EU is in many a unique case of 'north-north' integration of developed capitalist economies. It is therefore, hard to draw wider lessons from this experience for 'south-south' integration. For instance, in terms of different historical legacies, the EU never experienced colonialism as Africa did, never experienced slavery and apartheid, their economies never went through Structural Adjustment Programmes as demanded by the IMF and World Bank in Africa. However, relationship between Africa and Europe goes back a long way. The two regions are geographically and historically bound i.e. colonial relations, Yaounde and the Lome conventions, and Cotonou agreements are just some examples of how the two regions have interacted. Trade and development co-operation between Europe, Africa and other developing countries started with the creation of the European Economic Community (EEC) in 1957 (Friedrich Ebert Stiftung 2001). In a sense, the birth of NEPAD has further strengthened the ties between Africa and Europe.

Through such interactions, there is no doubt that the experiences of regional integration such as those from the EU had some influence in shaping the thinking of African leaders on the issue of regional integration. Also, the recent growth in regionalism has been dominated by the EU's activities. These include the "extension of the Single Market Programme to neighbouring countries that were not yet members of the EU, the signing of Europe Agreements with countries of the Eastern Europe and formation of a single currency. Member states of that union count among the richest countries in the world. On average nationals there are among the best educated, most productive and enjoy the best living standards" (EU 2002).

It is against this background that even former Soviet republics are eager to learn as much from the EU's regional integration experience. For this reason, regional integration is thus seen as a panacea for economic ills of developing countries such as those in Africa.

Even though the relations between Africa and Europe have continued over the years, these have not translated into Africa achieving its key independence objectives such as unity, regional integration and economic independence. Obstacles to regional integration in Africa are well recorded. As previously stated, among them is the issue of trust among members. One very important lesson that the AU can draw from the EU's experience is that integration requires mutual trust and confidence between partners as well as a perception that their interests in various issues are compatible (Winters 1997). The lack of commitment to regionalism in Africa has manifested in member countries developing strategies, plans and priorities independently. The EU/SA Free Trade Agreement (FTA) constitutes an example of this phenomenon. South Africa signed the agreement knowing that it would have a devastating impact on both the members of the Southern African Customs Union (SACU) and the Southern African Development Community (SADC). By acting independent of other regional countries, South Africa was trying to maximise benefits for itself at the expense of regional members. The persistence of colonial legacy has also prevented Africa from forming a strong position on regional cooperation. For instance, in West Africa, the inability of the Anglophone and Francophone countries to break their colonial heritages and to form effective economic groupings that cut across them became one of the key obstacles to successful integration. In fact, some of the erstwhile colonial powers have encouraged this disunity among African countries as it served their geo-political interests. What makes the EU the strong regional community it is today is because of unity of purpose that is expressed both at the theoretical and practical levels. The position of the EU

on common agricultural policy is just one example of unity in what is considered to be a very strategic regional issue.

Institution building has also been a key for consolidation and co-ordination of important integration activities. Institutions require deep commitment of resources such as finance and personnel. In the case of Africa, funding of institutions has been one of the key obstacles to the implementation of programmes. For example the OAU's programmes were constrained by huge debts mainly caused by members countries who were in arrears. The AU is facing similar problems. Eight countries are being threatened with exclusion for failing to pay their membership fees.

Five countries -- South Africa, Libya, Algeria, Egypt and Nigeria -- are currently providing most of the AU resources. These countries are responsible for 40% of the AU every year (Mail&GuardianOnline, July 23, 2003). This is obviously not sustainable in the long run as these countries also have their own domestic development problems to tackle. As a way of tackling the problem, the outgoing Chairman of the AU, President Mbeki, suggested in a recent meeting of the AU in Maputo, Mozambique that creative ways have to be found to deal with the issue of resources. Problems of weak institutional capacity in Africa are also exacerbated by brain drain, prevailing under-resourcing of educational institutions, and the HIV/AIDS pandemic. In terms of the need to find alternative sources of funding for AU activities, African leaders need tread carefully as experience shows that dependence on aid has led to African governments virtually ceding their economic and social policies to external agencies. In some cases, this has resulted into widespread corruption and lack of accountability by the ruling class. The AU's long-term viability and credibility will rely on its ability to be self-reliant in terms of resources i.e. finance and technical capacity. In terms of latter, the AU needs to provide enough incentives to attract skilled Africans who left their countries because of persecution, bad governance and abuse of power by governments. Also, NEPAD's recommendation that Africans from the 'diaspora' become part of the change processes in Africa should be welcomed. Such actions will go a long way in making Africa the political and economic force that it deserves to be. Human and social capitals are some of the ingredients that Africa desperately needs in order to prosper.

It must be stressed though that shortage of resources and lack of institutional capacity are not the only reason why collective regional development efforts in Africa have not taken off the ground. African countries' unwillingness to sacrifice sovereignty and fear of change are some of the reasons that make Africa to lag behind. For example, only 15 of the 53 countries have thus far, agreed to be peer

reviewed. The Peer Review mechanism is one of NEPAD's proposals for promoting good governance in the continent. The ratification of Pan-African Parliament has also hit a snag. So far, only 11 member countries have confirmed ratification. At least 27 member countries must ratify the Pan-African Parliament before it comes into force. The apparent lack of buy-in from the rest of the members is a problem that NEPAD still has to address. For instance, some of the African leaders hold the view that NEPAD should not interfere with political, security and conflict resolution issues. The EU's experience shows that the evolution and achievement of regional integration involve compromises, trade-offs and patience. For example, achieving a single currency entailed surrendering a fundamental element of sovereignty and foregoing a major tool of economic management. Perhaps the AU needs to engage in confidence building measures and ensure that states comprehend the potential of a collective power. Such a process will require a gradual approach to ensure that states, one-by-one, become willing participants in change processes.

As part of institution building mechanisms, the AU has ambitious plans to establish 17 different institutional organs. These include Economic, Social and Cultural Council (ECOSOC), Pan African Parliament, Court of Justice, Financial institutions (African Central Bank, African Monitoring Fund, Africa Investment Bank), The Assembly of the Union, The executive Council, The Commission, The permanent Representative Council and The Specialised Technical Committee (SABC 2003). Peace and Security Council (PSC) is regarded as essential because it will formalise the establishment of African Peace Keeping Force. The AU regards the current levels of conflicts and instability in the region as inimical to the ideals of peace and stability. The EU's institutions also include The Commission, Council of Ministers, Parliament, Court of Justice, European Central Bank and so on. Given, the EU's institutional arrangements, there is no doubt that the AU has learned some important lessons. Even the African Peer Review Mechanism in the AU is designed along the lines of Growth and Stability Pact within the EU. Both institutions are designed to ensure accountability, good governance and ethical administration. The institutional designs in both the EU and the AU are designed to provide strategic direction and coordination of tactical processes. A high level of institutional capacity and investment of human resources in research, negotiation and monitoring has been important to the success of the EU. However, given the current resource and capacity challenges facing the AU, it remains to be seen whether institutions modeled along the lines of the EU will be appropriate for Africa's specific conditions. For instance, the secretariat, currently operating on a budget of \$31-million, is estimate to increase in size to 749 people with a budget of \$53-million. Over the

years, the EU has become a very expensive organisation, it will therefore, be difficult for the AU to seek to emulate the EU's institutional model without seeking to make drastic amendments to it. The AU will have to consider prioritising what is workable under the current conditions i.e. under-development, unfair terms of trade, poverty, diseases, wars and instability.

6. SPECIFIC CHALLENGES FACING NEPAD AND AU

If NEPAD is to succeed in its regional integration objectives, there are a number of questions that need to be addressed. These include, to what extent are African countries willing to take practical measures necessary to give practical effect to their declared objectives? Why has there been a striking contradiction between each sub-region's general emphasis on the need for regional integration in Africa and the scant evidence of practical success? Why has regionalism been less successful in Africa than anywhere else? There is a need for NEPAD to take stock of what is required to ensure that it threads cautiously given the past regional integration experiences in Africa. Unlike the EU, NEPAD is faced with the twin challenges of dealing with the legacy of poverty, inequality, corruption, and social injustices in the continent whilst confronting the ravages of neo-liberal economic globalisation. The growing inequality, unevenness and injustice embodied in the New World Order have become so pervasive to ignore. Studies by the Economic Commission for Africa (ECA) have shown that to meet the poverty reduction target of halving poverty by the year 2015, a scenario of balanced policies and an average growth rate of 7 per cent are the minimum requirements. Rates of investment necessary to achieve this growth rate are in excess of 25 per cent of the GDP, annually (ECA 2000). The ECA recommends policies and programmes that promote broad based, labour-absorbing patterns of growth and reduction of income inequality (ECA 2000). As a result of global economic configurations which militates against Africa's interests, foreign direct investment (FDI) inflows to Africa declined by more than 13% in 2000, according to UNCTAD. The slump was primarily the reflection of a 50% drop in inflows to the continent's main recipient countries of FDI – Angola, Morocco and South Africa. Flows to other African countries were more or less stable. FDI into North Africa increased last year, to \$2.6 billion, while flows to sub-Saharan Africa were down, from \$7.9 billion in 1999 to \$6.4 billion in 2000. Within sub-Saharan Africa, the Southern Africa Development Community (SADC) remained the most important subregion in terms of FDI inflows, which nonethe-

less dropped from \$5.3 billion in 1999 to \$3.9 billion in 2000. Africa's share in world FDI inflows is still very weak, falling below 1% last year. But despite this recent decline, investment flows to the continent are still much higher than in the early 1990s, as African countries have made considerable efforts to enhance their investment climate. Despite the well professed and articulated benefits of globalisation mainly based on West-centred 'knowledges', the trade and development experience of African countries prove otherwise. The difference between West-centred 'knowledges' and others lies in emphasis and insights, which are seen in different elements and dynamics. Whilst the majority of Western-centred 'knowledge' emphasise the 'time-space compression, shrinking world, new technologies etc, non-Western 'knowledges' highlight growing poverty and inequality (Manboah-Rockson 1999).

Ikeme (2000) also cautions against Africa buying uncritically into the neo-liberal approaches to globalisation. His view is that:

"African countries should move away from the ideology of unrestrained export-led growth and move towards the creation of policies that seeks to develop production for internal markets as the first option, having recourse to international trade only when clearly much more efficient. To globalise the economy by erasure of economic boundaries through free trade, free capital mobility and free, or at least uncontrolled migration, is to wound fatally the major unit community capable of carrying out any policies of the common good. This is because of the belabored fact that cosmopolitan globalisation weakens national boundaries and the power of national and sub-national communities, while strengthening the relative power of TNCs."

Though many organs of civil society have expressed appreciation for the good intentions of NEPAD as a social and economic recovery plan for the continent, questions have been posed as to whether it offers adequate solutions to the current challenges facing Africa and its peoples. For instance, some sections of civil society organisation have raised concerns that NEPAD is too vague on many issues. The labour movement in particular is worried that NEPAD does not mention issues relating to the labour market in a clear sense at all. Hence, fundamental questions are being asked about the position of NEPAD on labour aspect of development. These questions include: what is NEPAD's perspective on labour rights? What structural changes are needed in African labour markets to support investment in skills development and improved work organisation? What measures does NEPAD propose to create large-scale decent jobs in Africa?

Other concerns have revolved around the ideological orientation of NEPAD. In particular its 'trickle-down' economics have been regarded as inappropriate to deal

with Africa's daunting problems such as poverty and lack of access to basic services. While the market-led development and market integration approaches might have been appropriate for the EU and other regional economic communities around the world, questions are being asked whether these are necessarily the best approaches to tackle Africa's development problems. For instance, there is growing evidence that the poor in Africa have not benefited from the privatisation of essential services such as water, electricity, health and telecommunications. Therefore, NEPAD is being challenged to come up with programmes that are aimed at addressing Africa's core development challenges. In the short to medium term a Western-style market-led approach are viewed as being inappropriate to tackle such development problems. Already, there is evidence that the condition of the poor has deteriorated further as governments across Africa are compelled to cut public expenditures and restrict necessary imports to conserve foreign exchange as part of an International Monetary Fund (IMF) and World Bank economic restructuring programmes, thereby curtailing investment in productive sectors (Ikeme 2000). Access to basic services such education, health, potable water, electricity and food has decreased as a result of Structural Adjustment Programmes (SAPs). NEPAD is thus, challenged to avoid taking doctrinaire and dogmatic approaches to issues such as privatisation and limiting the role of the state in development. The provision of agricultural subsidies by the EU and US shows that governments' intervention in the economy can be a necessary measure to protect economy and populations against harmful effects of global trade.

In Africa, the markets have thus far, had a limited success in providing basic needs and services to the poor. The role of NEPAD should therefore, be the promotion of access to basic services by the poor. Conditions in Africa demand that the states should be strengthened and not weakened. Strong states in the paper are defined as those that "construct their power with society or through society, rather than restricting themselves to power over society. This type of power is reflected in the density of the institutional networks linking state and society, which are key index of strength" (Gelb 2002).

The successful implementation of both the AU and NEPAD programmes requires strong alliances between states and civil society in the continent i.e. develop inclusive regional integration strategies. At the moment, one of the fundamental weaknesses of NEPAD is identified as the apparent lack of civil society participation in its formulation. As Landsberg (2003) describes it: "Like many other initiatives in the past, NEPAD was an essentially elite driven initiative, crafted almost exclusively by heads of state and government, and state-dominated institutions.

From the word go therefore, NEPAD set itself up for a legitimacy crisis by not opening itself up to other key non-state constituencies".

Unlike the AU and NEPAD, the EU's regional integration processes, though not perfect, had some 'democratic components'. For example, the democratic aspects to the evolution of the EU include elections and referenda to approve the countries' membership to the Union (InterAfrica Group/Justice for Africa). In Africa, such an approach has been sadly lacking. Africa can thrive in the new global economy if it combines economic openness with a clear domestic investment strategy and effective civil society and political institutions. It is through the strengthening of collective action that Africa can solve its protracted crisis, and this requires the transcending illusion of independent national development in a continent of fragmented markets and miniscule states (Adedeji 1990). The promotion of sustainable domestic policies is critical if NEPAD is to produce desirable results in the continent. For instance development cannot occur without industrialisation. At the core of the development strategy in Africa should be the need to promote co-ordinated trade development, and industrial policy in a regional integration framework with a stable and predictable policy environment. Many of the past Africa's development plans invariably failed to indicate a well-integrated and coordinated approach. Most of them discussed the progress or individual countries in a disjointed fashion, apparently ignoring the fact that most industries are interrelated and interdependent. These development plans tended to be inward looking, and to refer to measures for increasing economic growth within the country concerned. Consequently, none of the development programmes initiated during the early 1960's attempted to coordinate industrial development in one country with the industrial growth of the neighbouring country (Asante 2003).

7. SUMMARY AND CONCLUSION

During the early years of independence, African countries took some measures to promote economic growth and development. They prepared national development programmes, created development agencies and negotiated loans. However, the efforts taken by African countries did not go far because of various reasons. These include small sized African markets, high proportion of GDP represented by agriculture, low level of industrialization, lack of resources, colonial legacy, limited institutional capacity and debt. All these factors posed serious challenges for Africa's economic and political unity. A number of powerful factors still militate

against effective economic integration. Most African countries are exporters of raw materials, especially agricultural and mineral products, and compete with one another for markets. Industrial production is concentrated in a relatively small number of countries, and is not significant on a global scale. Levels of domestic and inward investment remain low, and recent world trade agreements are not bringing any appreciable benefits to the continent. Until African economies are able to achieve respectable rates of growth and poverty reduction, the prospects for integration will remain dim.

Regional integration has been regarded almost as a panacea by many regions of the world, including Africa. The strength in numbers has been regarded as key for turning regional public bads into regional public goods. As a result of potential economic benefits, almost all the regions of the world have established some form of regional organisation or the other. In Africa, there has been a proliferation of regional economic organisations, with all countries belonging to more than one. This has resulted into problems of co-ordination, linkages and common strategies for development among these bodies. The birth of AU and NEPAD promise some changes to the current social and political impasse. Both institutions, especially NEPAD, have become highly influential in shaping Africa's development trajectory and interaction with global governance processes. In particular, its proposals about ending poverty, wars, conflicts, bad governance and diseases have attracted a lot of attention in regional and international circles. However, there are challenges to be confronted. Among these include turning common vision into common action.

Africa's experience of regional integration is in many ways a direct contrast to that of the EU, which is still regarded as an important model for regional integration. Unlike the African experience, the EU has expanded and deepened, and its member states have achieved a "degree of prosperity undreamed of, more and more smaller European countries have sought to join, in order to gain better access to markets, and access to the EU's social and agricultural funds" (www.europa.eu.int). Though the EU and AU share different historical experiences in terms of social, economic, political and historical legacies, there is room for collaboration and consolidation of relations between the two regions. However, the current challenges facing Africa demand that AU and NEPAD must learn the good aspects from the EU's experiences of integration. Though learning should not mean using the EU's experience as a template. The AU needs to adapt what is workable in an African context. These include prioritising problems of poverty, diseases, good governance, instability and wars. While the EU might be in the process of consolidating its social, economic and political gains from the past 50 years, NEPAD and AU needs to 'go

back to basics' i.e. deal with current socio-economic impasse facing the continent whilst dealing with the challenges of neo-liberal economic globalisation. The successful implementation of Africa's vision requires that NEPAD and AU learn from the mistakes of the past.

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EURO-MEDITERRANEAN TRADE UNION FORUM: OR THE IMPACT OF THE ETUC/ICFTU IN PAVING THE WAY TOWARDS A EURO-MEDITERRANEAN SOCIAL MODEL

INTRODUCTION

Since the end of the cold war, the development of bilateral relations between the European Union and the Mediterranean basin has enabled new levels of mutual understanding. Moreover, the importance given to human rights and democracy in the recent Euro-Mediterranean partnership, initiated by the European Commission, can only be fully understood within the framework of the EU's common foreign and security policy, and to a lesser extent the EU external trade regime. Fundamentally, "economic integration and democratic principles also strengthen regional and international stability because democratic countries are less likely to war against one another" (Pace, R. (2002) 74).

As witnessed in the process of eastward enlargement, the EU has backed economic and democratic assistance tools in the search for political and economic stability in the Mediterranean countries in the context of the wider process of globalisation. Little time has been reserved for the social dimension of the Euro-Med partnership and few possibilities and opportunities to act have been given to civil society actors. In this context, the European Trade Union Confederation (ETUC) and the International Confederation of Free Trade Unions (ICFTU), together with its affiliates in the region, took up the challenge to advance the social dimension of this regional partnership, through the creation of a Euro-Med trade union forum. The main tasks of this forum are to organise and support trade union co-operation and action and to represent the specific interests of workers of the Mediterranean region. In the long-term, the Euro-Med trade union forum has set itself the goal of establishing Euro-Med social standards, akin to the social 'acquis communautaire', to apply to the entire Mediterranean region.

1. THE EUROPEAN UNION AND THE EURO-MEDITERRANEAN RELATIONS

After 20 years of increased bilateral trade and development co-operation between the European Union, the 15 Member States and its 12 Mediterranean partners (based on ex-article 238 of the EEC treaty, now article 310 EC), and following significant global changes, such as the end of the east-west conflict, it was apparent that EU policies towards southern and eastern Mediterranean countries needed to be reconsidered. Following a proposal from the Corfu European Council (1994), the Conference of EU and Mediterranean Foreign Ministers in Barcelona (November 1995), agreed to launch a new approach to develop durable bilateral and multi-lateral partnership and regional cooperation through the Barcelona Declaration, itself based on a European Commission draft proposal. Thus, the so-called Barcelona Process or Euro-Mediterranean partnership was born. The 12 southern and eastern Mediterranean partners are: Morocco, Algeria, Tunisia (Maghreb); Egypt, Israel, Jordan, the Palestinian Authority, Lebanon, Syria (Mashrek); Turkey, Cyprus and Malta; and Libya currently has observer status at certain meetings.

The central objectives of the new EU-Mediterranean strategy were threefold:

- (1) To establish a common Euro-Mediterranean area of peace and stability, based on fundamental principles including respect for human rights and democracy (political and security partnership). The political and security partnership remains a major priority as a result of the upsurge in terrorism¹;
- (2) To create an area of shared prosperity through the progressive establishment of a free-trade area between the EU and its partners and among the Mediterranean partners themselves, accompanied by substantial EU financial support for economic transition in the partners countries and for the social and economic consequences of this reform process (economic and financial partnership); and
- (3) To develop human resources and promote understanding between cultures and the rapprochement of the peoples of the Euro-Mediterranean region, as well as to develop free and flourishing civil societies (based on social, cultural and human partnership).

1 2000/458/CFSP: Common Strategy of the European Council of 19 June 2000 on the Mediterranean region, Official Journal L 183, 22/07/2000 P.0005 – 0011. See also Pace, R. (2002).

The EU has encountered difficulties in its attempts to transform the Mediterranean basin into an area of dialogue, co-operation, peace and stability, linked to the heterogeneity of the Mediterranean partners, the intricacy of stakes and political affinities, and the subsequent instability of the relations between Mediterranean countries, and the resulting lack of a structured arena for developing stable co-operation.

On the one hand, criticisms have centred on the complexity of competence sharing at EU level and its application in the institutional structure of the partnership. Indeed the high degree of institutionalisation and the nature of the competence indicate more of a *rapport de force* between partners rather than co-operation. According to Limam, J. (2002: 102), this situation could be considered an incarnation of the contradictory logic of inclusion-exclusion of the South by the North. Furthermore, Limam identifies that the institutionalisation of partnership in the Barcelona process is much more oriented towards the EU's agenda rather than the Mediterranean partners, which has contributed to a distortion of the concept of partnership itself (pp.116/120). Moreover, the institutional structure of bilateral and multilateral partnerships is strongly predicated by an intergovernmental character that leaves no room for the participation of social and economic actors, with the exception of the co-operation between the European Economic and Social Committee and its counterpart institutions in each state.

The resulting democratic deficit in the partnership is all the more paradoxical since the reference to democratic principles is to be found in many places in bilateral association agreements as well as in the Barcelona declaration. Moreover, this prevents the generalisation and strengthening of the dialogue between the EU and the Mediterranean region, since the relevant institutions and current framework remain closed to active participation by economic actors and civil society, in general, and the trade unions in particular. However, this argument is counterbalanced by the proposal made by the civil society forum, which was welcomed in the Presidency Conclusions of the European Council in Thessaloniki (19 and 20 June 2003), to strengthen inter-parliamentary co-operation within the Euro-Mediterranean partnership (see Euromed report, Issue No. 63 of 23 June 2003).

It was in this context, recognising the absence of social commitments of the EU in the Euro-Med partnership, that the ETUC/ICFTU took up the challenge to establish a Euro-Med trade union forum.

2. THE EURO-MED TRADE UNION FORUM

For many years, the ICFTU and the ETUC have expressed their interest and support for the respect of democratic principles and fundamental social and civil rights in the southern and eastern Mediterranean region. Through recent reform and transition processes, local trade unions in the region have been confronted with a sudden increase in political, economic and social developments, meaning that they have to face challenges of unprecedented complexity and magnitude, affecting their statutes and structures. These drastic changes have the capacity to paralyse local trade unions and disable them from giving the necessary input into draft reforms either because no prior consultation or dialogue has been foreseen, or as a result of a poor rate of respect for trade union rights in general.

In the light of this situation, particularly since the Barcelona declaration of 1995, the trade union movement perceived the need to become more involved in the process of creating a Euro-Mediterranean area of shared prosperity (Khedim, R. (2003), 342). In 1999, the ETUC, along with the ICFTU, the International Confederation of Arab Trade Unions (ICATU) and the Trade Union Confederation of Arab Magreb Workers (USTMA), adopted a resolution to create a trade union forum to organise trade union co-operation and action and to represent the specific interests of workers of the Mediterranean region, at the Stuttgart Euro-Med trade union conference in April 1999. Furthermore, the establishment of a Euro-Mediterranean social fund targeted at co-financing programmes accompanying reforms in the partner countries, and policies promoting investment, employment, greater compliance with the ILO's core labour standards, and practical measures concerning social protection systems.

Objectives of the Euro-Med trade union forum

The basic idea behind the foundation of the Euro-Med trade union forum was to develop trade union co-operation and solidarity in the region by establishing an expert network to aid the building of contacts between trade union experts and practitioners with the aim of generating exchanges of experience and information-sharing. It was hoped that this would improve the regional union movement's capacity to act. The objectives were to improve the knowledge, expertise and awareness of trade unionists, but also to increase understanding between the members of the forum on the various industrial systems existing in the Mediterranean region as well as in the enlarged EU. The network also offers the possibility to carry out joint projects, research and training to promote the social dimension

of the partnership, on issues of labour law, social protection, social dialogue and industrial relations. Furthermore, an additional aim was to strengthen trade union aptitude in the fields of collective bargaining, involvement in economic and social issues, elaboration of trade union policies relating to privatisation and regional economic integration. The final ambitious goal was to progress towards the ratification of ILO conventions and to gradually work out and implement Euro-Med social standards. In this respect, the forum is an additional and complementary tool in the Barcelona process (Khedim, R. (2003) 344), and may aid the practical implementation of European social policy commitments.

Organisation of the Euro-Med Trade Union Forum

Although the Euro-Med trade union forum is managed by the ETUC, its activities are jointly organised according to an internal agreement between the ICFTU and the ETUC. The activities of the forum are financed under an external aid grant contract, which covers support for trade union development in Arab countries.

While composed of a total of 45 members (14 from the EU, 8 from the candidates countries, 18 Mediterranean-partner countries, 4 transnational members and one coordinator), the forum is administered by the forum's co-ordination committee which is itself composed of 13 members (4 members of the EU working in rotation, 4 members of the Mediterranean-partner countries and 4 members of the international/EU trade union organisations and the coordinator). The main role of the committee is to work on specific topics identified by the forum participants and based on the outcomes and conclusions of various meetings organised with experts and practitioners.

Although the deteriorating situation in the Middle East and its repercussions on the forum have slowed down the implementation of the necessary mechanisms to carry out its objectives, since the year 2000 several regular substantial meetings have been held in the framework of the Euro-Med trade union forum. The main issues raised have concerned a process of reflection on co-operation with non-governmental organisations, the adoption of a work programme for 2001-2003 to carry out comparative research in the field of labour law, social protection and social dialogue, as well as the elaboration of the work programme for 2004-2006 concentrating on disseminating the outcomes of the research projects. Moreover, trade union expert workshops have been organised in parallel with the forum committee's meetings, focusing on the consequences of reforms on trade unions' negotiating power and capacity in view of the rise of unemployment as well as the

growth of the informal sector and undeclared work and the spread of non-standard employment relations.

Recent key outcomes

It is always difficult to offer any kind of evaluation of the establishment of a partnership, since it is a dynamic process in essence, constantly developing. Time is one of the most relevant factors (Limam, J. (2002) 102). Furthermore, one must consider the adverse effects of the unstable and deteriorating political situation in the Middle East on the Euro-Med trade union forum, alongside the impact on migrant workers of the September 11 terrorist attacks, the stagnation or worsening of the economic situation and their repercussions on the labour market.

Although these considerations and events are relevant and have affected the Euro-Med trade union forum, and the setting up of the network of trade union experts to an extent, it is important to recognise that valuable results have been achieved in a relatively short period of time, though further similar efforts are still needed:

- (1) The building and consolidation of bilateral and multilateral co-operation to foster greater solidarity for the common goods of workers in the region, to promote peace and stability in the region,
- (2) The creation of a Euro-Med social fund whose purpose is to finance economic and social reforms,
- (3) The setting-up of a network of trade union experts and practitioners to encourage increased exchanges of information and expertise in social policy fields, to provide teaching and training material for trade unions in the region and the EU. On a regular basis regional meetings have been organised with the long-standing quality commitment of the experts and practitioners involved.

Since 2002, local and ETUC/ETUI trade union experts in the field of labour law, social protection and social dialogue in several countries of the Euro-Mediterranean region have conducted a number of comparative studies. Several seminars were organised to discuss interim results and new developments in local social legislation. Comparative studies were carried out based on national analyses of the state of legislative and practical play in the 3 areas mentioned. Firstly, these were conducted on a regional basis, with one for the Magreb and another for the eastern shore of the Mediterranean, and secondly, they were drawn together to provide a comparative document covering the entire Mediterranean region.

The aim of the comparative study on labour law was to draw a detailed overview of the labour legislation in Algeria, Morocco, Tunisia, Jordan, Egypt and

Palestine, based on a consensual agreement between the experts reached in the seminars. After a brief historical introduction and an outline of the institutional organisation of labour relations, the study placed emphasis on individual employment aspects such as working time, wages, dismissal protection and non-standard employment, on one hand. While on the other hand, the focus was held on collective labour rights, such as the rights and protection of workers' representatives and trade union rights, such as the freedom of association and the right to strike (Schömann, I. (2003) *Transfer* No.2, 356-361). In the field of social protection, the aim was to give a precise overview of the origins and organisation of the social security systems in the southern and eastern Mediterranean countries, i.e. those of Algeria, Morocco, Tunisia, Egypt and Jordan, focusing on several aspects such as the tension between the social objectives and financial constraints, the representation of the social partners in social security systems bodies, the coverage of the population and the various risks covered (Lourdelle, H. (2003) *Transfer* No.3). As concerned the issue on social dialogue and concertation in Algeria, Egypt, Jordan, Morocco, Palestine and Tunisia, the comparative study focuses essentially on the actors and the structure of the social dialogue and concertation bodies, using a fruitful combination of legal and sociological sources and data. Particular attention should be paid to the concluding sections focusing on the strengths and weaknesses of the social dialogue and concertation structures in the selected countries (Schömann, I. (2003) *Transfer* No.4).

The findings of these comparative studies have been converted into training materials and are currently being used as support resources in regional training seminars. Moreover, they provide a basis for the Euro-Med trade union forum to monitor and evaluate changes and ongoing reforms, in order to arrange and structure trade union policies and actions better in the future. Furthermore, the dissemination of existing outcomes² of the Euro-Med Trade Union Forum, together with training sessions and new research projects, will provide a platform to increase awareness, interest and commitment for multilateral relations and co-operation between the trade unions of countries on the northern Mediterranean shore and those of the southern and eastern shores (Khedim, (2003) 355).

2 Through the publication of the comparative studies as ETUI reports in late 2003/beginning of 2004 in 3 languages (French, English and Arabic, the comparative study on social protection is also available in Spanish) as well as the publication of experts summaries of the studies in the 3 last *TRANSFER* issues of 2003.

3. EURO-MED SOCIAL STANDARDS: A LONG-TERM CHALLENGE INSPIRED FROM THE EU SOCIAL MODEL?

In the struggle for democratic freedoms and respect for human and social rights, a major long-term challenge of the Euro-Med trade union forum is the gradual introduction of Euro-Med social standards to the entire Mediterranean region. Together with the need to broaden the Forum to other trade union organisations in the enlarged EU (the current EU partners are Spain, France and Italy, with backing from Greece and Portugal), and therefore confirm Europe's commitment to the Mediterranean-partner countries, the setting up of Euro-Med social standards would hopefully pave the way to reduce the huge gaps between social standards in the Mediterranean region. Since the launching of the Euro-Med trade union forum in 1999 this has represented a consistent objective. The development of the social dimension of partnership agreements through established common social standards is one of the major points in the Forum's prospective work programme for 2004-2006. It is primarily of interest to define, even approximately, what type of reference model(s) the Mediterranean-partner countries and the ETUC/ICFTU will identify to elaborate Euro-Med social standards. The choice of a reference model will have far reaching consequences on the treatment of social issues, such as fighting poverty and exclusion, but also on how countries guarantee a decent working life. The difficulty remaining will be how to adapt such a model to the particular situation of the Mediterranean region.

The EU 'acquis communautaire' as a reference model in trade and security fields

Through bilateral and multilateral agreements, the Euro-Mediterranean partnership and the Barcelona process have generated a progressive transition and adaptation of the Mediterranean-partners' legislation to reduce direct and indirect obstacles to trade between the EU and its Mediterranean-partners. This institutional partnership considers the European integration process as the reference model, using different reference mechanisms to the 'acquis communautaire'. For example, agreements may formally refer to or use the wording of the Community legislation, as it is the case for European law governing industrial and commercial property and on European competition law. Furthermore, the gradual adaptation and harmonisation of the legislation of the Mediterranean-partner countries is organised according to a commonly approved calendar and guaranteeing that each step taken is viewed as an asset which cannot be questioned further. This

bears the markings of the EU integration process. In this respect, one may identify an alignment to conform to EU provisions, a kind of transposition of the 'acquis communautaire' (Frikha, I. (2002) 58).

However, the European Union has encountered difficulties in applying the fundamental principles of its common foreign and security policy in the Mediterranean region, resistance stemming from the Mediterranean-partner countries lies largely in their fear of losing their own political power (Pace, R. (2002) 95.) Furthermore, as Imed Frikha (2002: 55) points out, a double limitation directly affects reference to the EC treaty and secondary Community legislation. A first limitation lies in the lack of application, in the case of a dispute, of the terms of agreements that need an intermediary phase to be enforceable at national level. However, and according to the ECJ, *"a provision in an agreement concluded by the Community with non member countries must be regarded as applicable when, regard being had to its wording and the purpose and nature of the agreement itself, the provision contains a clear and precise obligation which is not subject, in its implementation or effects, to the adoption of any subsequent measure"* (see ECJ case Demirel/Ville de Schwäbisch Gmünd C-12/86 [1987] ECR-I.3752). The interpretation of the ECJ makes it clear, that the first limit is a provisional one. The second, durable limitation concerns the fundamental differences of objectives between the European integration process and the Euro-Med partnership that imply a different interpretation of the referred provisions. Indeed, while the provisions of the EC treaty and secondary Community legislation aim at European integration, the provisions of Euro-Med agreements concentrate on a kind of consolidated co-operation between the EU and the 15 (soon to be 25) member states, on one side, and the associated Mediterranean countries on the other side. In this respect, the ECJ concluded in the *Metalsa Srl* case (C-231/91 [1993] ECR-I.3773) a different interpretation of the principle of fiscal non-discrimination laid down in an agreement, in comparison to its own interpretation for EU purposes. The ECJ has with good reason stressed the specificity of the partnership between the Community and non-member states in general, therefore strengthening the argument that, in the multilateral partnership, the European model must be adapted to the specificity of the Mediterranean countries.

The necessity of adapting the EU social 'acquis communautaire' to the Mediterranean region

To take a pragmatic approach, for the purpose of the Euro-Med trade union forum, the concept of 'social acquis communautaire' as been elevated to the concept of

'EU social model', while one must remain aware of the variety of conceptual interpretations on the 'EU social model', as well as the evolution and difficulties experienced by the model recently (Scharpf, F.W. (2002), Servais, J.M. (2001), Hunt, L. (1999)). Although both concepts are heavily debated at EU level, and no commonly-agreed definitions are available, the common initial perception of what constitutes the 'social acquis communautaire' embraces the EC Treaty provisions, secondary Community legislation and Community case law directly and indirectly related to social issues.

Using this broad reference as a starting point and considering the current scope of the EU's formal experience, the Euro-Med trade union forum has long called for a more equal co-operation, emphasising the social dimension of the partnership (currently the *parent pauvre* of the institutional partnership). Moreover, the Euro-Med Trade Union Forum has always given priority to the setting-up of social standards adapted to the Mediterranean region and in line with the fundamental principles for which the ETUC/ICFTU commit themselves. Priority has been given to involvement by the trade union movements in the Mediterranean-partner countries themselves, working along with the ETUC/ICFTU, to push for democracy and the reinforcement of the rule of law, secure the exercise of fundamental workers' rights and trade union freedoms, safeguard trade union unity, and guarantee better employee representation, especially in the private sector and in small and medium enterprises. Out of respect for the cultural and societal pluralism of the Mediterranean region, the Euro-Med trade union forum tends to favour the development of local solutions, based on an understanding of local difficulties, through the enhancement of trade unions' capacities and resources. The underlying aim being to heighten local trade unions' skills and abilities to participate more fully in the reform process and lessen the social repercussions on workers.

One of the main achievements of the partnership so far has been the establishment of an active network of trade union experts to identify the state of play vis à vis their respective labour and social legislation and practices in the field of the social dialogue. Initially, regional seminars were used to disseminate information collected through national studies presented in a comparative framework, to the trade unions of the other Mediterranean countries and the involved EU Member States with the aim of raising awareness and developing interest in the different neighbours' industrial relations systems. Furthermore, it is hoped that this will serve to identify the challenges likely to face a given trade union organisation and the relevant issues needing redress and subsequently, to assist trade unions in their attempts to shape national or local strategies. A medium-term aim is to

determine areas of common action and fields of divergence between the national systems to elaborate a type of trade union charter of shared social and economic interests and goals. It will also be essential to inform the Mediterranean-partner countries of the functioning and content of community social legislation, the structure and outcomes of the European social dialogue (Hoffmann, J. Hoffmann, R. Kirton-Darling, J. Rampelshammer, L. (2002) 55-65) and the role of (European) social partners in the elaboration, implementation and monitoring of social norms, the enlargement process and the role of the social 'acquis communautaire' in fighting against deregulation of labour standards in some accession countries as supported by the World Bank, as a second step in this process of establishing the Euro-Med social standards.

The final step will be to collate the experience gained during this process in order to define the common social and economic values accepted by both the Mediterranean-partners and the ETUC/ICFTU, with a view to setting common standards that will be communicated to the European Union as a necessary and complementary tool for the Barcelona process. The Euro-med social standards should be the expression of a "[social] *acquis Euro-Mediterranean*"³, to be applied to the Euro-Mediterranean zone, and on the basis of which non-appliance should activate mechanisms of deterrent sanctions. Furthermore, and as experience has already demonstrated in the field of trade, competition and security, it is expected that the 'acquis Euro-Mediterranean' will generate strong multiplication effects on the level of co-operation (Frikha, I. (2002) 69), also in the field of social policy.

CONCLUSION

As a complementary process to the EU institutional commitments towards the strengthening of Euro-Mediterranean co-operation, oriented to social policy concerns and the process of democratisation of industrial relations systems in the Mediterranean region, the Euro-Med trade union forum has already achieved valuable outcomes in a relatively short period of time. External (such as the effect of eastward enlargement of the EU on European investment and public allocation) and internal difficulties have slowed down the programmed activities of the forum, but have not worn down the commitment of the ETUC and ICFTU to support trade

3 Quoting the European Commission in its reference to the existing bilateral and multilateral Euro-Med partnership.

unions in the Mediterranean region, which are facing tremendous challenges. The ambitious Euro-Med trade union forum work programme for the period 2004-2006 was recently adopted and should strengthen its capacities and its work towards closer involvement by more European trade union organisations. Moreover, in continuation of the former work programme, the deepening of multilateral and bilateral co-operation will be one of the major tasks for the next 3 years. However, as regards the diversity and specificity of the Mediterranean region and of its local trade unions, the main goal of Euro-Med trade union forum will be, in the medium term, to gradually develop social standards common to the Mediterranean region and to the ETUC/ICFTU, which would be akin to the European social 'acquis communautaire', albeit adapted to the peculiarity of the region.

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TURKEY'S ROAD TO THE EU: PROBLEMS AND PROSPECTS

1. BRIEF HISTORICAL OUTLINE AND STANCE OF EU-TURKEY RELATIONS

The application for association with what was at that time the EEC was submitted by Turkey on 31 July 1959, shortly after a similar step had been taken by Greece. This application was not motivated by primarily economic goals, or by any particular wish on the part of Turkey to improve its relationship with Europe. It was a merely political decision prompted by Turkey's wish not to remain outside an organisation of which Greece was a part.

On 12 September 1963 the Association Agreement was signed in Ankara¹. It outlined the steps to full membership, which, after a preparatory, transitional and final phase, provided for the creation of a Customs Union by 1 January 1995, as well as for the free movement of labour by 1 December 1986. In addition, Turkey was to receive financial resources from the EC to aid it in reforming its economy in line with EC structures and to compensate for the negative economic consequences entailed by the abolition of customs duties in the course of gradual creation of the Customs Union.

In the following years, the relationship between Turkey and Europe was adversely affected by three military coups in Turkey. In 1978, due to an economic crisis, Turkey's obligations with regard to dismantling customs duties were, at its own request, placed on hold for five years. The military coup in Turkey on 12 September 1980 prolonged the standstill in relations and the Association Council did not meet again until 16 September 1986. Seven months later, on 14 April 1987, Turkey submitted an application for full EC membership. The reply stated² that the EC was unable to embark on accession negotiations with any country until after the completion of the EC internal market. Other reasons cited were the continuing

1 Cf. "Agreement establishing an Association between the European Economic Community and Turkey; signed at Ankara, 12 September 1963", *Official Journal of the European Communities*, No L 361/1.

2 European Commission, 23rd Annual report, § 801.

economic gap – in spite of positive developments in recent years – between Turkey and the EC average, as well as the shortcomings in the practice of democracy and human rights. The road to Turkish membership was not, however, completely blocked. The Commission Report to the Council of Ministers of 5 July 1990 specified ways in which Turkey was to be brought closer to the EC. The Customs Union was to be completed by 1995, while the € 600 million from the 4th financial protocol, which since 1981 had been consistently vetoed by Greece, were to be paid to Turkey as quickly as possible. To date, the sum in question has not been remitted.

Turkey stated its readiness to implement all necessary measures to achieve Customs Union by the deadline set by the EU. This involved approximation of its national legislation, above all in the economic sphere, to Community law and required Turkey to amend or adopt around 100 laws. Though the Customs Union would be of greater benefit to the EU and would, in the short to medium term, entail negative economic effects for Turkey itself, the Turkish government was very keen to achieve it rapidly. The reason for this was that the Customs Union was, quite possibly, Turkey's last trump card in forging a closer, long-term link with the EU which was now broadcasting its intentions with regard to eastwards enlargement. In other words, the Customs Union might possibly serve, under changed circumstances within the EU and in world politics, to ensure a potential prospect of full membership in the long term. This is probably also why Turkey had to work so hard to provide a convincing case for the Customs Union, for the EU and European Parliament were reluctant to go ahead, given their reservations concerning human rights practices in Turkey. European industrialists strongly supported Turkey's plans and after heated argument and a very close vote in the European Parliament (in December 1995) the Customs Union (for industrial goods) came into force on 1 January 1996. This makes Turkey the first – and only – country that has entered into a Customs Union without being a full member of the EU.

However, neither the achieved Customs Union nor the longstanding Association Agreement were regarded, in the first instance, by the EU as sufficient argument to include Turkey in its enlargement plans. At the Luxembourg Summit in 1997, where the Commission's Agenda 2000 was adopted, the possibility of full membership for Turkey was postponed *sine die* and Turkey was not included in the list of candidates for accession. As a result of the Luxembourg Summit, Turkey, the country with the longest-running Association Agreement, was merely offered the option of attending the European conference to be held regularly to discuss coop-

eration³. The EU's stance of rejection triggered deep disappointment in Turkey, expressed in Prime Minister Mesut Yilmaz's official announcement that Turkey's political relations with the EU would be severed.

2. TURKEY AS AN ACCESSION CANDIDATE

At the summit of EU Heads of State and Government held on 10 and 11 December 1999 in Helsinki, Turkey – 40 years after its application for association status – was granted official accession status⁴, thereby enabling the political freeze, which had characterised relations between Turkey and the EU since the 1997 Luxembourg Summit, to be brought to an end.

Its official candidate status brought perceptible and lasting change to Turkey. In March 2001 the Turkish cabinet adopted its national programme containing a timetable in which Turkey committed itself to implementing the reforms required by the EU's accession partnership document. From this point onwards Turkey made significant progress in fulfilling the Copenhagen EU accession criteria. The progress includes a wide range of legislative amendments, particularly the reform of the Constitution adopted by Parliament in October 2001, followed, in November 2001, by a wide range of reforms in civil law that have served, among other things, to achieve a lasting strengthening of women's rights. The demands of the new constitution are met, in particular, by the most recent legislative package adopted by Parliament in early August 2002 which also represents a breakthrough for the fulfilment of the political accession criteria of Copenhagen, namely, abolition of the death penalty, guaranteed teaching in mother tongues other than the official language of the country's administration, and the authorisation of radio and TV programmes in Kurdish and other languages. This amazingly rapid pace of change in Turkey reflected the pressure under which Turkey found itself to secure its accession prospects by beginning the requisite negotiations with the EU before its imminent enlargement to include ten successful applicant members. Of the 13 countries whose applications have been accepted, Turkey is the only one with which the EU has not, so far, begun accession negotiations. This is because the Copen-

3 European Council (Luxembourg) 12 and 13 December 1997; Conclusions of the Presidency, §31-36, taken from <http://eu.eu.int/Newsroom>

4 European Council (Helsinki) 10 and 11 December 1999; Conclusions of the Presidency, taken from <http://europa.eu.int/council/off/conclu/>

hagen political criteria have not yet, in the opinion of the EU, confirmed by the progress report of the EU Commission on 9 October 2002⁵, been met.

The Copenhagen Summit in 2002, which brought Europe closer to a broader vision, was conducted under time pressure and thus characterised by tough negotiations. The historic unification of Europe, entailing the greatest enlargement so far with an additional ten states due to join the EU as from May 2004, will greatly change conditions within Europe itself but also those of its relations with the world beyond. Hence Turkey's concern and corresponding endeavours to begin the accession negotiations as quickly as possible. The path followed by the former EEC, to which Turkey applied 42 years ago, to become the EU of today entailed the forging of new structures, challenges and options which have, to date, adversely affected Turkey's prospects for EU membership. Every enlargement of the EC or EU, not just the accession of Greece but also that of Spain and Portugal, worsened not only Turkey's membership prospects but also its general status within the EU. This is bound to be, even more strongly, the case in the face of the next and now imminent enlargement.

Turkey was indeed not satisfied with the decision of the EU Council in Copenhagen. In its statement issued on this occasion, the EU

"encourages Turkey to pursue energetically its reform process. If the European Council in 2004, on the basis of a report and a recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria, the European Union will open accession negotiations with Turkey without delay."⁶

The postponement of the deadline for a decision until after December 2004 means that the accession negotiations will begin only after full acceptance of the other candidates, making the overall conditions for Turkey harder, insofar as, once the new enlargement has taken place, the fight for EU resources will be tougher. Even if Turkey were to receive assurances that the ten new members will have no right of veto in this respect, this guarantees nothing about the stance that may be adopted by the old members in the wake of enlargement.

What is positive about the decision is that Turkey is now offered a prospect, albeit hardly an unequivocal one. It is stressed, furthermore, in paragraph 18 of the decision that Turkey, according to the decision taken in 1999 in Helsinki *"is a can-*

5 European Commission: Regular report 2002 on Turkey's progress towards accession COM (2002) 700 Brussels, 9.10.2002, SEK (2002) 1412, taken from <http://europa.eu.int/comm/enlargement/report2002>

6 Conclusions of the Presidency of the European Council (Copenhagen), 12 and 13 December 2002, SN 400/02, §19, p. 5. Taken from <http://europa.eu.int/comm/enlargement>

didate state destined to join the Union on the basis of the same criteria as applied to the other candidate states.”⁷ This statement once again brings to the surface the political opinions about where the frontiers of Europe are deemed to lie and whether or not Turkey is culturally and geographically a part of Europe.

It is really not clear, from a perusal of the Copenhagen decision, why, in the event of fulfilment of the Copenhagen criteria, a decision could not be taken concerning accession negotiations in December 2003, given Turkey’s extraordinary and unprecedented preparedness and determination to rapidly overcome its shortcomings. After all, the Commission’s regular progress report will already have been issued before the EU Summit in December 2003.

3. THE EU’S POLICY TOWARDS TURKEY AND RECIPROCAL PERCEPTIONS

To date, an examination of the EU’s policy towards Turkey serves to reveal the European Union’s utterly ambivalent position with regard to this country. On the one hand, there exist treaty links and simultaneously strategic interests which prevent the EU from completely turning its back on this economically, geo-politically and internally important country. On the other hand, there are a number of objectively founded (economic and political criteria of Copenhagen), but also emotionally grounded reservations (Turkey does not belong to western Christendom and lies on the far confines of Europe) to the accession of Turkey.

Over and above all these factors, there is a lack of consensus within the EU countries concerning the future role of the EU, making it more difficult to arrive at any clear vision, in particular in questions of foreign and security policy, the area in relation to which Turkey’s significance for the EU can best be measured. Europe’s uncertainty about its own role and about the likely future significance of Turkey leads, alongside the fact that it is at present so closely and legitimately preoccupied with the rapid stabilisation of eastern Europe, to a situation in which, in spite of binding treaty links, no clear answer can yet be given to the fascinating riddle “where is Turkey headed?”

The EU tries to deal with this situation by a policy of holding back or hesitation while at the same time seeking not to provoke any loss of motivation on the part of Turkey. As long as Turkey was not yet ripe for accession to an EU that was not

7 Ibid. §18.

yet ready to accept it, a short term plan for continuing relations was not needed. Such a plan did become necessary when Turkey actually began to take the steps towards reform in fulfilment of the Copenhagen criteria laid down by the EU which had not reckoned with such swiftly implemented reforms and strong determination, even on the part of the new and religious AKP-led government. Its assumption had been rather that Turkey would continue its former relaxed attitude in its efforts to raise standards in the areas of democracy, legislation and human rights.

After settling the matters concerning which undertakings had been given to the EU in the framework of the national action programme, Turkey went ahead with a self-confident demand for an accession negotiation timetable. The hesitant reaction of the EU, which referred to the lack of practical implementation of the reformed legislation, strengthened on the Turkish side the already present mistrust and the sense that the EU is failing to behave honourably and fairly with regard to Turkey. For with all other twelve accession candidates, including Romania and Bulgaria, the EU is conducting accession negotiations, even though Bulgaria and Romania, in particular, received strong criticism in the Commission's annual progress report⁸ on account of their restriction of freedom of opinion, mistreatment of minorities and corruption. All twelve countries have been ranked by the EU since 1997 as countries meeting the Copenhagen political criteria.

It is a fairly widespread perception in Turkey that the EU treats it like a poor relation. In virtually any public debate in the country one hears comments to the effect that the EU will never let Turkey in, however many additional EU demands it fulfils. There will always be additional off-the-record reservations, such as the proximity of Iran, Iraq, Syria and Armenia, which would bring conflicts right onto the EU's doorstep, the budgetary impossibility of accession, the flow of unemployed Turks into Europe, or the lack of a common history and religion.

4. PROBLEMATIC AREAS IN EU-TURKEY RELATIONS

It is a fact that perceptions of Turkey in the EU are dominated by anxieties and concerns, some of them deep-rooted, that have to be taken seriously. But these anxieties of today are projected into the future as if there were no way that they might ever change. Yet the Turkey of the future, ripe for accession, will, if it receives fair

8 Cf. European Commission: report on the progress of Romania to accession for 1988 and 2002, page 13 ff. taken from the Commission's enlargement website.

support and clear prospects from the EU, be quite a different Turkey from the present one. It is a question of supplying energetic backing for the process begun in Helsinki and clearly indicating the route to be followed. Turkey should be accepted only when it can guarantee stable, institutional structures, democracy, the rule of law and respect of human rights, as well as fulfilling the economic criteria. What objection can there be to accession of Turkey, once it meets all these conditions, except one based on religious and cultural rejection? Yet it is this kind of exclusion which stands in flagrant contradiction to the content of the pluralistic community of values defended by Europe and, further, makes the content of the Copenhagen criteria utterly superfluous.

There can be no rational justification, on the basis of European values, for the recently rekindled discussion of Turkey's geographical and cultural heritage and values⁹. Furthermore, since the Helsinki decision (recently confirmed in Copenhagen) such a debate has become completely irrelevant in legal terms and emotionally extremely counterproductive.

It is a fact that an early accession of Turkey at present represents a challenge for the EU on technical, institutional and financial grounds. The position of Turkey will also depend decisively on the future structural and institutional shape of the EU. Turkey's wish is not for rapid accession, but for a clear prospect in this direction and to this end. Everywhere in Turkey people are perfectly aware of their country's shortcomings and deficits in comparison with EU standards. EU accession by Turkey would rest in practice upon five pillars and these are, to some extent, the areas on which the anxieties of the EU are focused. These would be:

- (a) Representation of Turkey in the Parliament, the EU Council and the Commission
- (b) Customs Union
- (c) Free movement of workers
- (d) Eligibility for funds from the EU budget
- (e) Turkey's contribution to the European Foreign and Security Policy (EFSP)

9 Cf. Comments by Convention President Valéry Giscard d'Estaing in: <http://www.spiegel.de/politik/ausland/0,1518,221971,00.html>; Helmut Schmidt: "Einbinden, nicht aufnehmen" in *Die Zeit*, 50/2002; (http://zeus.zeit.de/text/politik/leiter_schmidt); Position of the CDU/CSU in: Antrag der Fraktion der CDU/CSU "Für ein glaubwürdiges Angebot der EU an die Türkei" vom 04.12.2002 an den Bundestag 15. Wahlperiode, S.

Re (a): Representation of Turkey in the Parliament, the EU Council and the Commission

During the Nice Summit of 7-11 December 2000¹⁰, at which fundamental institutional and structural reforms of the EU were to be decided in the run-up to enlargement, it is well known that no adequate solution was found but only a minimal consensus. The Nice decisions, which related principally to future decision-making mechanisms and power relations in the EU bodies, take account of all candidate countries with the single exception of Turkey. The reason for this is not, as is claimed, that Turkey is currently not conducting accession negotiations with the EC. It is much more a question of the fear of the decisive influence that a country as large as Turkey can exert on power relations within the EU and it is, as such, a question primarily of concern to the large countries, the so-called core countries, of the EU.

Since Nice, all the accepted candidates, with the exception of Turkey, know to how many Euro-Members of Parliament they will be entitled, how many votes they will have in the EU Council and by how many Commissioners they will be represented once they accede to membership. Using the figures contained in the Nice decisions, it can be worked out that Turkey, on the basis of its population size, which is 12% of the current EU and 38% of all applicant countries, would, if it were to accede to the EU, have 74 members in the EU Parliament (the same number as France, Great Britain and Italy), one Commissioner and 29 votes in the Council, like Germany, France, Great Britain and Italy. In addition, Turkey would send between 1000 and 1500 civil servants to work in the Commission and other EU institutions.

Re (b): Customs Union

Regarding the second pillar, namely the Customs Union, Turkey has passed the test since 1996. The EU was the main beneficiary of the Customs Union. In the period from 1996 to the present the EU's export surplus in its foreign trade with Turkey was over US \$ 60 billion¹¹. The Customs Union, currently applicable to industrial goods only, must be extended to cover also services and agriculture.

10 Conclusions of the Presidency of the European Council (Nice) of 7, 8 and 9 December 2000; taken from: http://europa.eu.int/council/off/conclu/dec2000/dec2000_de.htm

11 Own calculations based on foreign trade statistics from the Turkish Foreign Trade Office.

Re (c): Free movement of workers

The Association Agreement (AA) of 1964 and the Additional Protocol (AP) of 1973, together with various later decisions of the Association Council, form the foundations which, among other things, regulate the free movement of labour between Turkey and the EU. It was originally foreseen that free movement would be gradually implemented between the 12th and the 22nd year after entry, but this was not possible to achieve.

In the case of full Turkish EU membership the member states fear that free movement could generate further unemployment in Europe. These arguments were also high on the agenda before the accession of Greece (1981) and Spain and Portugal (1986) but the fears turned out to be unjustified. In addition, Turkey has already frequently indicated its readiness to comply with EU demands on this question, namely, to further postpone the right to freedom of movement in the case of full membership. Further the question of freedom of movement has to be viewed in a new light, given the need of nearly all EU countries for immigrants to redress their own population developments.

Re (d) : Effects on the EU budget

One of the arguments used against full membership for Turkey is that it would constitute an unsustainable burden on the EU budget. These fears have been refuted¹² by research from the *Zentrum für Türkeistudien (ZfT – Center for Studies on Turkey)*. It emerges clearly from the calculations that although Turkey would, it is true, belong to the net recipients, it would not represent an excessively heavy budgetary burden on the EU. Using figures from the study by the German board of trade and industry with eastern European states, the ZfT calculated that Turkey would, in the case of full membership in 2001, have paid € 1.9 billion into the EU funds and would have received from them a total of € 10.208 billion. This would place it only slightly ahead of Spain which, with the receipt of € 7.2 billion, is at present the greatest net beneficiary.

Re (e): Turkey's contribution to the EFSP

In terms of security policy the significance for the EU of Turkey, with its strategically vital situation between European and Asia, is uncontested. The development of a European security policy is that much harder if Turkey, as a member of NATO

12 Şen Faruk/Akkaya, Çiğdem, "Die Auswirkungen eines türkischen EU-Beitritts 2001 auf den EU-Haushalt", *ZfT-aktuell*, Essen, December 2002.

but not of the EU, is thus torn between the Transatlantic fronts. Turkey also is fighting a battle against international terrorism and is one of the few Islamic states that affirms an openness to secular values and democracy. It is still the most important western bastion in protecting Europe from Islamic fundamentalism. Turkey is becoming increasingly important in questions of missile defence systems for Europe. It is a guarantor of stability in the Black Sea region, creates a counterbalance to Russia in the Caucasus, controls strategic access from the Black Sea to the Mediterranean, remains the bulwark on the southern flank of the NATO defence system and plays an important role in the solution of the conflicts in the Balkans. Finally, the gas and petroleum needs of Europe are met to the tune of almost 60% by countries in Turkey's immediate neighbourhood. The significance of Turkey from the security and defence policy angle has been proven in the past in a number of crises, not least in the case of the events following 11 September 2001. In the light of the EU's new policy goals and security policy ideas, Turkey is indispensable for the stability in the eastern Mediterranean, the Middle East and the Caucasus, as well as being a positive influence in the Islamic world.

Turks in the EU

Another factor of relevance to the relationship between Turkey and the EU, are the Turks living within the borders of the European Union. They play an important role that should not be underestimated. For the past forty years 3.8 million migrants from Turkey have been living in the EU countries, and 1.3 million of them already have the nationality of an EU country. Increasing numbers of Turks within the EU adopt the nationality of their country of residence. The rejection of Turkey on cultural grounds implies also the non-acceptance of this population insofar as it is classified as non-European. Such an attitude is clearly not conducive to its integration in and identification with Europe. Furthermore, it has been shown that a high correlation exists between the political instability of the countries of origin and domestic policies in the EU host countries, as was clear in the case of reflections by Kurds or the question of the Middle East.

Translation from German by Kathleen Llanwarne

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