



Revisiting Val Duchesse

Social dialogue and gender

Interview with DG Employment's David-Pascal Dion

Future of collective bargaining

Working together in small companies

Findings from the European Company Survey

Developments in social dialogue in the Member States

# Social dialogue

For a competitive, fair and modern Europe



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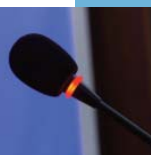


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Social dialogue is a key part of the European social model, with European social dialogue having been launched at the historic Val Duchesse meeting 30 years ago. However, since then, established approaches to social dialogue in Europe have been challenged by industrial and social change. Ongoing shifts towards greater decentralisation of collective bargaining have resulted in a polarisation of Member States and the crisis has resulted in an increased trend towards unilateral decision-making by governments at the expense of social partners' autonomy. In response to these challenges, the new Juncker Commission has set about a 'relaunching' of social dialogue. This issue of Foundation Focus looks at the current state of play of social dialogue in Europe, focusing in particular on Eurofound's extensive research findings from both its Europe-wide surveys and its observatories.

## Editorial

Collective industrial relations, including social dialogue, have undergone dramatic change over recent decades, with a shift to predominantly service or knowledge economies, greater individualisation in society at large, and the growth of female employment and changing gender roles bringing issues of work-life balance, care arrangements and working-time patterns to the table. And economic change is a key driver of the role of social dialogue. After the financial crisis of 2008, the issue of European social dialogue slipped down the policy agenda in the face of more immediate economic concerns. Strengthening social dialogue to enable social partners to address socioeconomic issues in Europe more effectively has, from its outset, been a declared key task of the new Juncker Commission.

Over the first half of 2015, European social dialogue received much greater attention, with key players at EU and national level coming together for three major events. On 5 March, a high-level summit in Brussels brought together the EU-level cross-industry and sectoral social partners together with the European Commission to discuss ways to strengthen social dialogue. On 19 March, the Tripartite Social Summit looked at the contribution of the social partners to investing in growth and creating jobs. And on 21–22 April in Riga, an informal meeting of EU Ministers for Employment and Social Affairs held as part of the Latvian Presidency examined the role and future development of social dialogue.

The challenges are clear: in an interview in this issue, Head of Unit for Social Dialogue and Industrial Relations at the Commission's DG Employment, David-Pascal Dion says: 'Only a reinforced partnership of the main European actors can preserve the European project.' In the framework of the European Semester, the Commission calls for strengthening social partners' involvement in the design and implementation of policies and reforms at national level. If European social dialogue is to operate fully, the EU and its Member States must support both the dialogue itself and national players in the field of industrial relations.

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## From Val Duchesse to Riga: how to relaunch social dialogue?

**The new European Commission under President Jean-Claude Juncker is committed to relaunching social dialogue: a first step was taken with the organisation of a high-level conference in Brussels on 5 March 2015. The aim of the conference was to discuss concrete ways to strengthen social dialogue with EU cross-industry social partners and their national affiliates. On 21 and 22 April 2015, Ministers for Employment and Social Affairs in Riga again discussed – informally – ways towards a committed, realistic social dialogue.**

From 1985 onwards, at the initiative of then European Communities President, Jacques Delors, social dialogue took on a more autonomous and bipartite form in the preparatory phase of the Single Market. This fundamental change dates from 31 January 1985, when EU-level social partners met at the château of Val Duchesse in Brussels. It was Delors' firm conviction that the Single Market programme had to be matched by a social dimension to the European Community; the cornerstone of this Social Europe would be European social dialogue. Thirty years later, many academic experts and EU actors now argue that it could be made more efficient and effective.

### Towards more autonomy

The principle of 'autonomy of the social partners' is embedded in most of the legal systems of the EU and has been recognised as one of the general principles of EU law. However, recent Eurofound research has shown that one impact of the crisis on industrial relations has been an increased trend towards unilateral decision-making by governments at the expense of social partners' autonomy, especially in the public sector (Eurofound, 2013a). EU social partners stress the importance of their collective bargaining autonomy; trade union representatives – in particular

– voice their concern about what they perceive as interference by EU institutions in national-level wage determination and wage policy. Society works better if citizens feel that decisions concerning them are taken at the most appropriate level – in line with the principle of subsidiarity. When social partners arrive at common solutions, these often have a better chance of succeeding, because they have more support and are often more realistic. A firmer application of the principle of subsidiarity seems to be the right way to strengthen social dialogue.

### Greater representativeness and legitimacy

Under European social dialogue, management and labour have developed into co-legislators in the social policy field; the representativeness checks that the European Commission carries out are very important in ensuring the legitimacy of the actors in this process. In 2006, Eurofound was mandated by the Commission to assess the representativeness of the European social partners; since then, it has published 38 sectoral studies (and one cross-industry study) in order to underpin the legitimacy of that dialogue. These studies map the relevant EU social partners that should be consulted by the Commission.

### Need for better linkages

Within European social dialogue, the number and scope of policy proposals depend on whether the European Commission considers these initiatives a priority for the EU. The EU's progress in this field is – in turn – contingent on the degree of support from other EU institutions and Member States, and on the social partners themselves. This is why one commentator famously interpreted European social dialogue as an industrial relations process characterised as 'bargaining in the shadow of the law' (Bercusson, 1995).

However, the shadow of the law seems to have faded over the past decade – as has the incentive of both sides of industry to engage in effective dialogue.

Furthermore, a crucial dimension of social dialogue is the relationship between European-level social partners and their national affiliates: the future of social dialogue at EU level depends on the ability of social partners to increase the flow of information and degree of cooperation between these two. If European social dialogue is to operate fully, the EU and its Member States must support both the dialogue itself and national players in the field of industrial relations.

### Rebuilding mutual trust

Social dialogue is based on discussion and mutual learning. The Val Duchesse process created a dynamic by building up both a relationship of trust between the actors (based on their having better information about each other's capabilities and intentions) and a commitment to engage in negotiations at EU level. Past interviews with actors with interests at the EU level have shown that 'learning' is a key factor in the process. In the aftermath of the 2008 economic crisis, it may be time to revisit the spirit of Val Duchesse and rebuild that relationship of trust between the two sides of industry.

### Closer involvement

At EU level, the involvement of the social partners in the European Semester process has improved at the different junctures. The European social partners are now consulted prior to the publication of the Annual Growth Survey (AGS) and the 2015 AGS proposes to further engage with the social partners beforehand and to discuss and receive feedback on emerging trends or topical country-specific issues. Since this year, the country reports are published three months earlier in order to allow for a better discussion of the reports



with the social partners and other stakeholders at national level. The Employment, Social Policy, Health and Consumer Affairs Council (EPSCO) has discussed the involvement of the social partners and endorsed the Employment Committee (EMCO) guidelines, which could be followed by the Social Protection Committee (SPC) as well. In a move initiated under the Italian Presidency, the European social partners now participate directly in discussions at the informal meetings of the EU ministers for Employment and Social Affairs. The European social partners have welcomed this recent practice and the dialogue with EMCO and SPC as advisory policy committees for EPSCO.

Another innovation within the Semester process is the creation of European Semester Officers – economic policy experts based in the European Commission's national representation offices in the 28 Member States. Their role is to explain the European Semester and the new economic governance to the various stakeholders, including the social partners, at national level. However, there also seems to be a general consensus among the actors (EU institutions and European social partners) that despite recent progress an even closer involvement of the social partners both in the European and national strands of the European Semester is needed.

## Social market economy

The European social model – of which social dialogue is a central pillar – has been challenged over the course of the crisis. Recent attempts to strengthen the social dimension of Economic and Monetary Union (EMU) have addressed some initial design weaknesses to make it fairer, more competitive and capable of promoting growth. On the 30th anniversary of the Val Duchesse conference, both Vice-President of the European Commission Valdis Dombrovskis and Commissioner for Employment, Social Affairs, Skills and Labour Mobility Marianne Thyssen reiterated that social dialogue was a prerequisite for a social market economy and crucial to both competitiveness and fairness. The genuine and committed involvement of the social partners is needed for a fresh start to that dialogue.

**Christian Welz**

## INTERVIEW WITH DAVID-PASCAL DION

**'Only a reinforced partnership of the main European actors can preserve the European project.'**



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**Recently appointed Head of Unit for Social Dialogue and Industrial Relations at the European Commission's Directorate General for Employment, Social Affairs and Inclusion, David-Pascal Dion discusses the Commission's firm commitment to strengthening dialogue with social partners across Europe and its role in recent initiatives to reignite social dialogue.**

***Eurofound: Recent research by the Commission and Eurofound has shown that social dialogue came under stress in a number of Member States during the crisis – in particular, in the so-called 'programme countries'. What can be done to improve the functioning of social dialogue at Member State level?***

David-Pascal Dion: Certainly, we have seen that during the later stages of the crisis social dialogue came under strain in many Member States. As also shown in the 2014 edition of *Industrial Relations in Europe*, the impact has been particularly strong in countries that have received financial assistance. In view of the acute economic pressure, achieving a broad consensus on the necessary reform measures has often proved difficult. Governments have more often taken measures unilaterally.

In the framework of the European Semester, the Commission calls for strengthening social partners' involvement in the design and implementation of policies and reforms at national level. National social partners need a certain degree of capacity to represent their respective interests and to coordinate their work. In a significant number of Member States, more support for capacity-building is needed, while social partners and public authorities from other Member States can usefully share their good practice in a process of mutual

learning. The Commission also provides financial support to strengthen industrial relations at national level – in particular, through the European Social Fund.

***Some voices from among the academic world and the social partners have argued that European social dialogue did not deliver to its full potential in the past. Do you agree?***

First of all, it should be noted that there is not one single European social dialogue. Social dialogue at the European level is quite varied, with both cross-industry committees and 43 sectoral social dialogue committees that have been active in past decades, delivering a broad range of outcomes including autonomous agreements and agreements that were implemented by Council Directives.

However, the Commission agrees that social dialogue at European level could contribute more to addressing the key challenges facing the European labour market and economy. This is why President Juncker has said that he wishes to be 'the President of social dialogue' and his Commission has taken these steps to give the social dialogue a fresh start.

***What steps have been taken so far and what is planned for the 'renaissance' of a genuine and effective European social dialogue?***

Many steps have in fact been taken, and I feel that we have hit the ground running. In the first months of its mandate, this Commission launched the process of the new start for social dialogue with a high-level event that brought together leaders of national social partner organisations from all across Europe.<sup>1</sup> Some 30 years after the launching of European social dialogue by President Delors and four

<sup>1</sup> The event took place on 5 March 2015 in Brussels.

members of the College of Commissioners at Val Duchesse, the new start for social dialogue initiated by President Juncker and four other members of the College highlighted the importance of this process to the Commission.

The new start process is organised around two key themes: involvement of social partners in economic governance and support for capacity-building; and the contribution of social partners to policy and law-making.

As regards economic governance, the European social partners have already been more closely involved in the discussions during this year's European Semester. Earlier publication of the country reports allowed the Commission, the national authorities and the employment and social protection committees to engage in an exchange with the social partners before the country-specific recommendations (CSRs) were issued. The March 2015 Employment Guidelines – a document that sets the direction of the coordination of employment policy – emphasise the need for the Member States to closely involve social partners in designing and implementing relevant reforms and policies and to support an improved functioning and effectiveness of social dialogue at national level. The efforts undertaken by Member States in this regard will need to be reflected in next year's Semester – for instance, in their national reform programmes.

The Commission is also keen for the social partners to be more involved in policy and law-making. In consulting the social partners, we want to go beyond the statutory consultation requirements, set out in Articles 154 and 155 of the Treaty on the Functioning of the European Union (TFEU). We have organised dedicated consultation hearings on key employment and social policy dossiers, such as integration of the long-term unemployed or the labour mobility package. But we also wish to involve social partners in areas that do not fall within the employment or social portfolio but that have social and employment impacts – for example, the Investment Plan, the Energy Union, the Transatlantic Trade and Investment Partnership (TTIP), the Digital Single Market, and so on. Meetings with EU social partners on these topics have already taken place, including with European Commissioners and Vice-Presidents.

Finally, we will continue to look for ways to support and strengthen social dialogue at national level through capacity-building. On 14 October 2015, as part of the 'Open Days' in Brussels, we are organising a workshop on the use of EU funds in supporting capacity-building. We will also look into ways to foster mutual learning with a view to further improving the functioning and effectiveness of social dialogue at national level.

A more detailed discussion on how to follow up on the new start is taking place in the two Thematic Working Groups dedicated to the two key themes with the participation of social partners representing all levels, representatives of Member States and of the Commission, as well as colleagues from Eurofound.

***Where do you see a role for Eurofound in this relaunch of the social dialogue process?***

Eurofound is a key partner in providing input in relation to the new start for social dialogue. With its tripartite structure and extensive expertise in industrial relations research, we count on Eurofound's support – particularly in terms of delivering on the country-specific information, which we need in the context of the European Semester. I would also underline the importance of the representativeness studies carried out by Eurofound; these are essential to ensure the proper functioning of European social dialogue.<sup>2</sup> Similarly, the recent research done by Eurofound on the concept of representativeness at national and at EU levels will provide useful material to deepen our knowledge and understanding of a key feature of social dialogue.

***You have recently been appointed Head of Unit for Social Dialogue and Industrial Relations at the European Commission's Employment Directorate-General. What are the main objectives you would like to achieve in this role?***

In my previous jobs in DG EMPL [as Head of Unit responsible for Coordination, Planning and Inter-institutional relations and earlier as assistant to successive Directors General], I actually followed several social dialogue files. I have, for instance, vivid memories of a discussion with M. Monti, R. Verrue, J. Monks and P. de Buck on the social dimension in the draft Monti Report on the relaunch of the single market.

When I took up my new job – after President Juncker announced that he wanted to be the President of social dialogue – I looked back at the launch of social dialogue, 30 years ago, by President Delors and at all its achievements, including its formal recognition in the EU Treaties.

Since 1985, the European landscape has changed dramatically. Globalisation, together with technological, demographic and environmental changes, all imply an adaptation of our European social model. Only a reinforced partnership of the main European actors can preserve the European project.

Social partners are key actors to ensure a more equitable and a more efficient social market economy. Not properly involving social partners in the design and implementation of reforms and policies runs the risk of failure and of ineffective and unfair outcomes.

Therefore, my main objective with the new start for social dialogue is to place social dialogue (European and national, cross-industry and sectoral, bipartite and tripartite) back at the centre of the discussions and of the solutions for a fairer and more effective European Union.

And I hope that, in 30 years' time, our successors won't feel the need for a new 'new start'.

***Interview: Christian Welz***

<sup>2</sup> <http://www.eurofound.europa.eu/observatories/european-observatory-of-working-life-eurwork/representativeness-studies>

# Collective bargaining in the 21st century in the EU



**At the heart of industrial relations systems, collective bargaining plays an important role in the functioning of national economies and sectors, as well as in the social fabric of Member States and the European Union. Diversity – in terms of the actors and parties involved in negotiations, rules of procedure, topics on the agenda, outcomes and legal effects of the agreements – is widely acknowledged as one of its key features.**

Collective bargaining systems and practices in the EU have come under some pressure in recent years, particularly following the financial and economic crisis in 2008. However, apart from a few exceptional cases of stability, many EU Member States were undergoing significant changes in their systems and practices of collective bargaining before the crisis. In addition, even with regard to long-standing, common trends such as decentralisation, these changes differ markedly at national level – in terms of pace, content and coordination and in the role played by the government. Recent research from Eurofound traces major trends and developments in collective bargaining in Europe from the late 1990s to the present. Some of the key findings are outlined here.

## Acceleration of change

There has been a process of steady change in collective bargaining systems since the late 1990s; this has accelerated since 2008, affecting all countries and not just those that experienced the crisis' most obvious social and labour market effects. In fact, the significant shifts towards more decentralised bargaining systems in many Member States started in a context of relative stability before the crisis, with countries in southern Europe catching up on developments that had already unfolded in other countries. Significantly, while the decentralisation of multilevel bargaining systems and practices in the Nordic countries and

western continental Europe had been implemented gradually in a coordinated way – mostly based on tripartite consultation and concertation – before 2008, the shift in countries such as Greece, Portugal, Romania and Spain has been much more abrupt and disorganised, with the changes often imposed unilaterally by governments.

## Process of fragmentation

This process (often described as 'individualisation' or 'fragmentation') is widespread. It has taken place in those Member States that have introduced more flexibility into their multilevel bargaining processes by implementing mechanisms to allow deviations from sector-level collective bargaining agreements (such as limiting or preventing extension mechanisms or allowing temporary or permanent opt-outs) and to orientate wage negotiation towards company level. Fragmentation also has taken place in countries, such as the central and eastern European Member States, where bargaining processes were predominantly implemented at company level. And it has become a more visible reality in those countries that until the 2008 crisis had resisted the trend.

The common trend towards decentralisation and flexibility in collective bargaining processes has not been totally uniform. There have been moves in different – even opposing – directions. To understand these divergent developments, it is important to consider the differences in the point of departure (particularly the degree of flexibility from the company point of view), the organisational strength and influence of key actors, and external pressure (such as unemployment, competition and the financial state of companies). Despite all these asymmetries, however, the underlying trends fundamentally stem from an increasing economic pressure on companies, sectors and countries and the need to adjust labour costs and improve productivity.

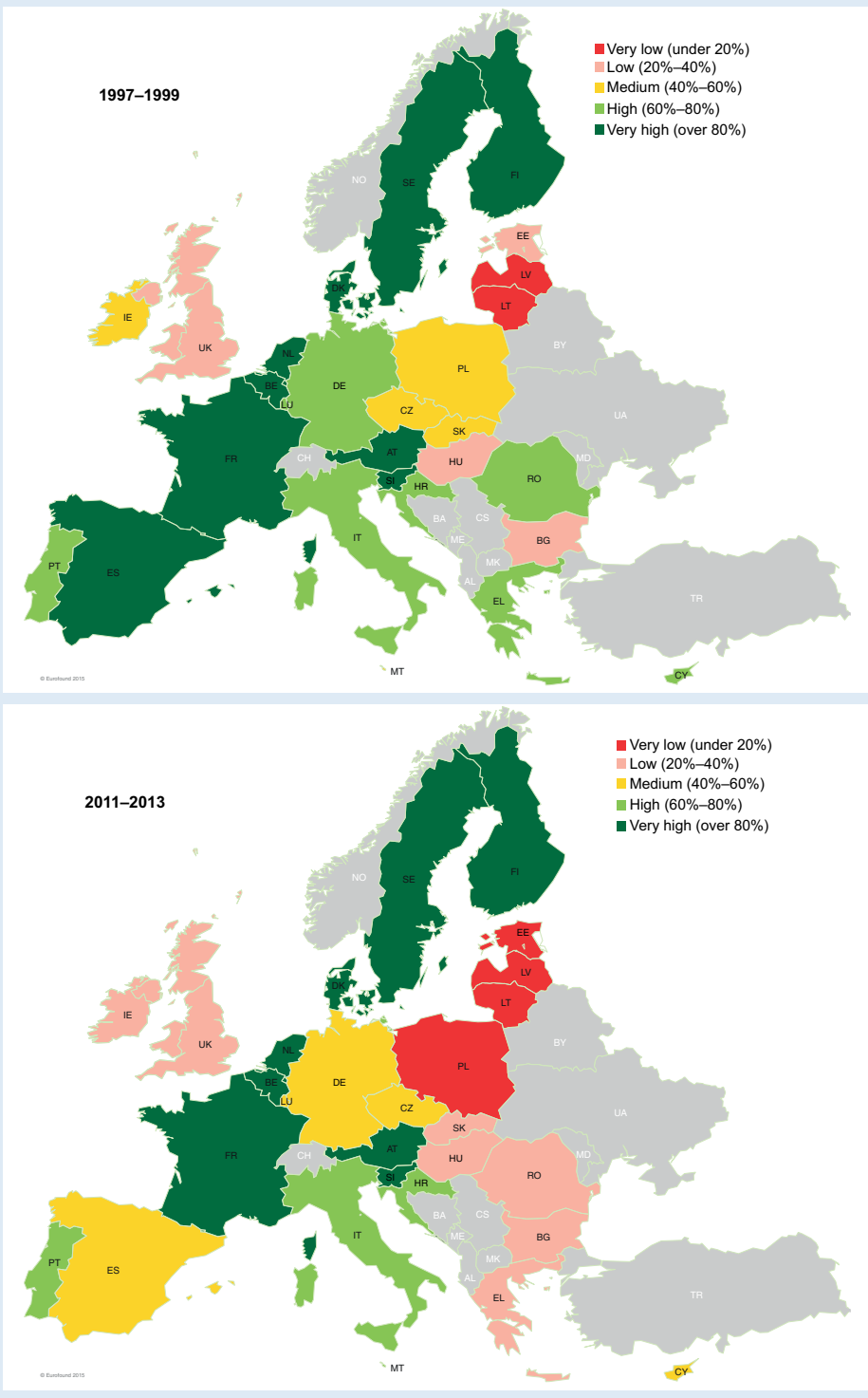
## Growing polarisation

The already existing differences between collective bargaining regimes have widened since 2008. These differences arise from distinct industrial relations models: those in which social partners' organisational strength is comparatively high, social dialogue structures, practices and institutions are stable and influential, and the collective bargaining agenda is broad; and those in which actors, processes and outcomes are weaker.

Perhaps the most dramatic indicator of growing discrepancies is to the substantial change in the distribution of collective bargaining coverage rates among countries since the late 1990s. When countries are grouped by degree of coverage, a pattern emerges of growing polarisation between national collective bargaining systems. The group with the highest coverage rate (of more than 80% of the labour force) has remained relatively stable, comprising Austria, Belgium, Denmark, Finland, France, the Netherlands, Slovenia and Sweden over the entire period. A second group, with a high rate of coverage of between 60% and 80%, at the end of the 1990s comprised Croatia, Cyprus, Germany, Greece, Italy, Luxembourg, Portugal and Romania. This level of coverage has eroded significantly during the period; today, only four countries achieve it: Croatia, Italy, Malta and Portugal.

The group of countries with a collective bargaining coverage rate below 40% has experienced the strongest growth in numbers (from six to eleven). In the late 1990s it comprised Bulgaria, Estonia, Hungary, Latvia, Lithuania and the UK; it now also comprises Greece, Ireland, Poland, Romania and Slovakia. As a result of this transformation of the collective bargaining landscape, four out of ten employees in the EU today are not covered by collective agreements, as the figure shows.

## Comparison of collective bargaining coverage rates in EU Member States, 1997–1999 and 2011–2013



Notes: For 1997–1999, the EU average was 68%; by 2011–2013, it had dropped to 61%.  
Sources: European Commission (2013 and 2015a). Data based on ICTWSS Database, Version 4.0

### Patterns of change in industrial relations systems in the EU

| Cluster             | Patterns of change               |   |                              |                       |
|---------------------|----------------------------------|---|------------------------------|-----------------------|
|                     | Low impact                       | Some impact                               | Significant impact           | Strong impact         |
|                     | Gradual adaptation               |   | Accelerated change           | Crisis-induced change |
| <b>North</b>        | Denmark, Norway                  | Sweden, Finland                           | —                            | —                     |
| <b>Centre-West</b>  | Austria, Luxembourg, Netherlands | Belgium                                   | Germany                      | —                     |
| <b>UK, Ireland</b>  | UK                               | —   | —                            | Ireland               |
| <b>South</b>        | Malta                            | France, Italy, Croatia                    | Portugal                     | Greece, Spain         |
| <b>Central-East</b> | Estonia, Poland                  | Czech Republic, Cyprus, Latvia, Lithuania | Bulgaria, Slovakia, Slovenia | Romania, Hungary      |

Source: Based on contributions provided by Eurofound's network of European correspondents

## Towards unilateralism and more EU input

Over the past 15 years, the interventions made by governments in collective bargaining have varied considerably in their extent and orientation; however, there has been a tendency towards governmental unilateralism – and not only in the so-called ‘crisis’ countries. In addition, the European Semester process, taking place within the framework of European economic governance, has over recent years brought about a paradigm shift away from non-intervention in collective bargaining towards a more proactive EU approach of guiding and recommending reforms that encourage decentralisation and company-level flexibility.

### Varying patterns of change

The table shows the aggregate impact of change on collective bargaining according to a widely known typology, which classifies countries by the nature of their industrial relations system. Although a more detailed assessment may show variance from case to case, what is apparent is the diversity and growing polarisation within the Centre-West, South and Central-East clusters. This diversity is particularly notable, in the Central-East cluster, ranging as it does from countries where stability has prevailed to those where change has had a strong impact.

Since the end of the 1990s, three general patterns of change have affected the industrial relations clusters quite differently.

**Gradual adaptation:** This characterises all countries in the North cluster and most in the Centre-West group (apart from Germany), as well as the majority of countries in the South and Central-East clusters. This pattern includes situations as in Finland (with temporary recentralisation activity) and other countries with mixed experiences (Lithuania and Croatia).

**Accelerated change:** This pattern characterises a much smaller group of countries consisting of Germany (with different trends before and after 2008), Portugal and three Central-East countries.

**Crisis-induced change:** This describes an abrupt pattern of change – mainly in terms of decentralisation – in those countries in the South and Central-East clusters (and Ireland) that were most severely hit by the crisis.

## Challenges ahead

According to the views of the national partners consulted, there is a general climate of uncertainty and a growing feeling of standing at a crossroads with regard to the future of collective bargaining. At the same time, it is widely acknowledged that collective bargaining provides a solid foundation for progress and growth in the EU Member States – not only due to its central function of setting wages and working conditions, but also as an intangible value of industrial relations. This shared value builds up mutual trust between actors, eases the settling of labour and industrial disputes, and contributes to general macroeconomic development at national level and to the performance of business.

Collective bargaining has been shown to have important potential in increasing sector and company competitiveness and productivity and in enabling business to adapt to global challenges such as technological change. In order to foster this potential in accomplishing the development of the EU single market, policymakers should take action to support collective bargaining as an important asset of the EU social model.

**Ricardo Rodriguez Contreras**

## Trust: a key element in effective social dialogue

**How has the crisis impacted on social dialogue in workplaces? Findings from Eurofound's third European Company Survey show that, despite the crisis, many workplaces in Europe have managed to retain their well-functioning social dialogue practices. In fact, companies where social dialogue is working well report better company performance and overall workplace well-being. However, the research points to a sizeable minority of companies where social dialogue is characterised by a lack of resources, poor trust between management and employee representatives, and relatively high levels of industrial action.**

### Representation structures

According to the third European Company Survey, structures for workplace social dialogue are found in only about a third of establishments with 10 or more employees in the EU28: just 32% of establishments have an official structure for employee representation, and 26% of establishments are a member of an employers' organisation, or part of a company that is (Eurofound, 2015d). In this respect, differences between countries are huge. The Nordic countries have relatively high levels of organisation of both labour and capital (generally, it is found that higher levels of organisation of workers coincides with higher levels of organisation of employers). However, and worryingly, in a relatively large group of countries – including the Czech Republic, Greece, Hungary, Latvia, Malta and the UK – only a small minority of establishments have structures for employee representation and are members of employers' organisations. Size differences play a significant role, with small and medium-sized establishments being much less likely to have an official employee representation or to be a member of an employers' organisation.

### Collective bargaining coverage

The absence of an employee representation at the workplace level does not necessarily mean that the workers in



the establishment are entirely unrepresented. Collective bargaining can take place at various levels and higher-level collective bargaining (at the national, sectoral or company level) is likely to impact on the establishment as well. The survey results show that, overall, employees in 67% of establishments are covered by one or more collective wage agreements: 30% of establishments are covered by a company-level collective wage agreement, 29% by a sectoral or regional-level agreement, 23% by a cross-sectoral agreement and 21% by an agreement negotiated for workers in a specific occupation.

### Employee representatives

In establishments where there is a structure for workplace social dialogue, the vast majority of employee representatives report having sufficient time to carry out their duties. Smaller proportions report having received training for their duties (32%) and having access to external advice (37%). As would be expected, given the obligations arising from the Information and Consultation Directive (European Parliament, 2002), a large majority of employee representatives report having received information on the financial situation of the establishment (75%) and on its employment situation (80%). Again, information provision is better in larger establishments, and country differences are quite pronounced.

In just over half of all establishments, the employee representation is involved in joint decision-making on important decisions. However, in around one-third of establishments, the employee representation is not involved in, or only informed about, important decisions. Similarly, around half of the employee representatives (52%) report having had at least some influence on the most important decision taken in the establishment in recent years. Some 17% report having a strong influence, leaving 31% not having any influence at all.



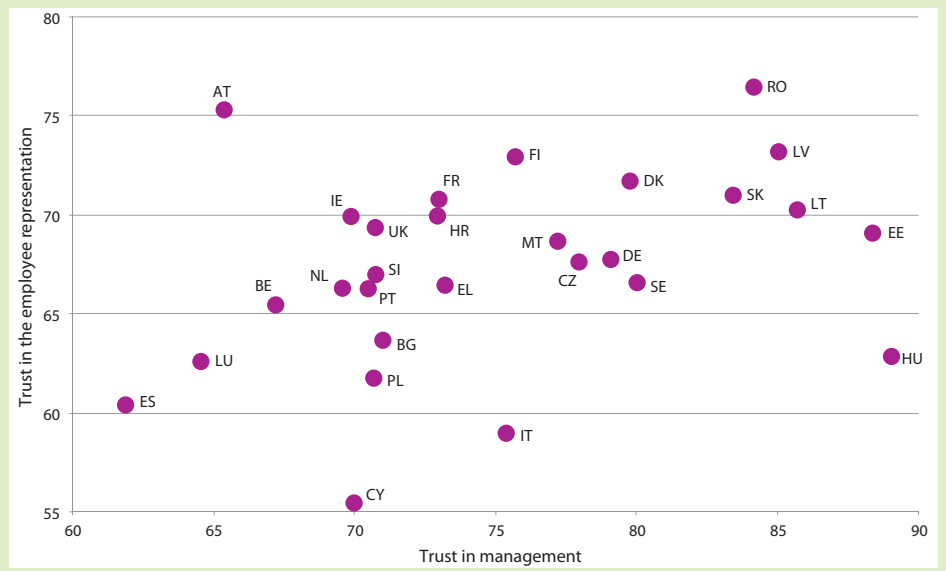
## Relationships of trust

In order to capture the degree of trust between management and employee representation, two separate indices were constructed. The 'Trust in management' index is based on the employee representative's assessment of the management's trustworthiness, their general relationship with management, their perception of the management's sincerity and whether or not they felt they were treated less favourably because of their position as employee representative. The 'Trust in employee representation' index is based on the manager's assessment of the employee representation's trustworthiness, their view on whether the involvement of the employee representation is constructive, and whether or not consulting the employee representation in important changes leads to greater staff commitment to the implementation of changes.

The figure shows a clear positive association between trust in management and trust in the employee representation, implying that trust is likely to be mutual.

The exceptions are Austria – where average levels of trust in employee representation are high and average levels of trust in management are low – and Cyprus, Hungary and Italy, where the reverse pattern is found. Where mutual trust between management and employee representation is low, industrial action is found to be more prevalent. Overall, 16% of employee representatives reported that

### Trust between management and the employee representation (indices range between 0 and 100)



Note: Score out of 100.  
Source: Eurofound, 2015d

some type of industrial action had taken place at their establishments in the three years preceding the survey.

### Towards 'win-win' outcomes

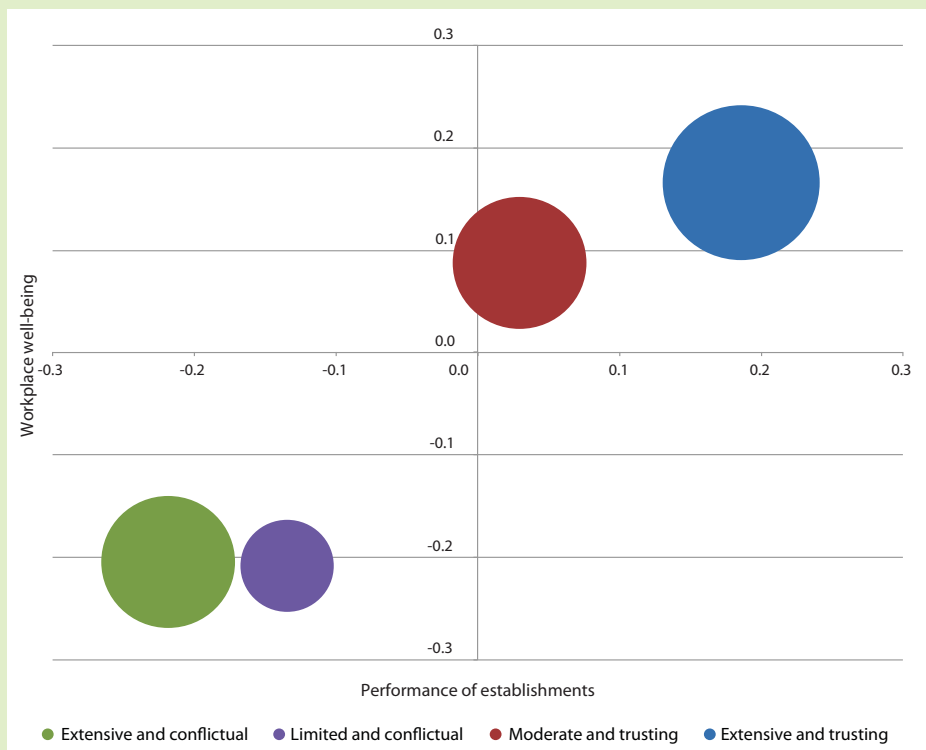
In order to gain an insight into the way in which practices with regard to social dialogue are combined at the workplace level, establishments were grouped together based on similarities in the resourcing of employee representatives, provision of information, extent of involvement of the employee representation, level of influence of the employee representation, trust in

management, trust in the employee representation and industrial action.

Four types of establishment were identified. In establishments of the 'Extensive and trusting' type (39%), employee representatives are well resourced and highly involved, levels of trust are high, and industrial action is rare. In establishments of the 'Moderate and trusting' type (26%), employee representatives are moderately resourced and involvement and influence are limited; nevertheless, levels of trust are high. In establishments of the 'Extensive and conflictual' type (25%), employee representatives are well resourced and highly involved and have moderate levels of influence; however, levels of trust are low, and industrial action is relatively prevalent. Finally, in establishments of the 'Limited and conflictual' type (10%), employee representatives lack resources and information and have little influence. In addition, levels of trust are low, and industrial action is relatively common.

Size of establishment and sector make a difference: the prevalence of the 'Moderate and trusting' type increases as establishment size decreases; in contrast, the prevalence of the 'Extensive and conflictual' type increases as establishment size increases. The 'Extensive and trusting' and 'Moderate and trusting' types are more prevalent in the services sectors than in construction, industry and transport. The transport sector stands out with a relatively high proportion of establishments of the 'Extensive and conflictual' type. Country differences are large but there is no clear-cut pattern, except that both the

### Performance and well-being by establishment type



conflictual types of social dialogue are much more prevalent in Spain than in the other countries.

Establishments of the 'Extensive and trusting' type are most likely to achieve 'win-win' outcomes, scoring highest in terms of both establishment performance and workplace well-being. Establishments of the 'Moderate and trusting' type score slightly lower on performance and well-being than the first type, but these differences are not statistically significant. Both of the types characterised by a conflictual environment score significantly lower in terms of both performance and well-being.

## Future investment

The analyses show that establishments where social dialogue practices are characterised by relatively high levels of mutual trust score better on both establishment performance and workplace well-being. In general, social dialogue practices are more strongly associated with differences in performance and well-being than other workplace practices, such as practices with regard to work organisation and human resource management. However, win-win outcomes are not guaranteed even when favourable practices are in place. Institutions and context matter and the effectiveness of practices depends on the wider conditions in which establishments find themselves. It also should be noted that only a minority of establishments actually have structures for workplace social dialogue in place – and this proportion is likely to have decreased in recent years due to the recession. In this respect, also, country differences are very large. There is no doubt, therefore, that more investment is needed in both the quality and extent of social dialogue at the workplace level.

### Gijs van Houten

## Towards a fresh start for European social dialogue



*'It would be great if, in ten years' time, we could already be in the history books for having managed to give a fresh start to social dialogue after the crisis.'*

Marianne Thyssen, *Social Agenda No. 39, December 2014*

**Collective industrial relations, including social dialogue, have undergone dramatic change over recent decades. This article looks at the current state of play of social dialogue, examines the trend towards further decentralisation in collective bargaining across many countries and assesses the impact of the crisis and the new European economic governance on collective bargaining and wage-setting.**

### Social dialogue in flux

The Treaty on the Functioning of the European Union (TFEU) establishes and institutionalises social dialogue at EU level on the basis of Articles 154 and 155. A distinction is drawn between cross-industry social dialogue and European sectoral social dialogue, and between tripartite and bipartite social dialogue. In the Laeken Declaration of December 2001, the European social partners clarified the conceptual differences between tripartite concertation, consultation and social dialogue. The topics of bipartite social dialogue derive from the work programmes adopted by the social partners.

With regard to agreements concluded by the EU-level social partners, the TFEU distinguishes between agreements implemented by Council decision or by procedures and practices specific to management and labour in the Member States (Article 155 (2)). A key characteristic of the latter, also called 'autonomous agreements', is that these texts have to be implemented in accordance with procedures and practices specific to management and labour and the Member States.

This governance necessitates a functioning social dialogue at European and national level. Strengthening of the

interaction between the European and other levels of social dialogue, effective industrial relations systems and strong social partner capacities at national level are considered crucial for ensuring proper implementation of these agreements (EESC, 2014).

### Outcomes

To date, the European social dialogue has delivered eight cross-industry, one multi-sectoral and 11 sectoral agreements. Parts of academia and EU actors argue that the EU sectoral social dialogue, in particular (which has adopted more than 700 texts in 43 sectors over the past decades, but concluded only 11 agreements), could be rendered more efficient and effective. In total, the number of agreements signed equates to less than 2% of the texts signed in the European social dialogue. The recent controversy about the hairdressers' agreement has additionally fuelled this debate. The Commission has not taken any decision to date and the social partners in the meantime have announced an initiative to revise the 2012 agreement (Eurofound, 2015b).

Collective industrial relations, including social dialogue, have undergone dramatic change over recent decades. Fordist mass-production in industrial economies has given way to more varied production models in predominantly service or knowledge economies. There has been a rise of individualisation in society at large – affecting the self-perception of the workforce and their attitudes towards both their work and the collective institutions which represent their interests. The growth of female employment and changing gender roles have brought new emphasis to issues of work-life balance, care arrangements and working-time patterns as topics for social dialogue. And the flexibility needs of companies and workers have come on to the agenda of social dialogue.

## Parties involved

Taken together, these factors have contributed to at least a partial de-standardisation of employment relations, which has posed a major challenge to the traditional actors in industrial relations: their role has been questioned not only in the practical sense of declining membership strength and organisational density, but in the reduced political acceptance of their role and of the legislative underpinnings of the work they do and the agreements they reach.

A number of factors appear to be important for effective social dialogue: the support of the public authorities; the autonomy of the negotiating parties; and the trust between the parties. The support of the public authorities can take very different forms – logistical and technical support for the actors, providing political incentives to the parties to engage in dialogue, and giving legislative support to extend and generalise the outcome of negotiations. Examples of all of these can be found at both European and national level, although recent developments have generally been to restrict or end such support.

The autonomy of the negotiating parties is seen by the social partners themselves as of crucial importance and this is reflected in different ways in the various national settings and at European level. Clearly, the European social partners have concerns that some of the procedures of the new European economic governance have undermined their autonomy, and this has implications for the degree of trust among the parties. Past experience has demonstrated, however, that a ‘virtuous’ cycle of interactions between social partners and public authorities is possible, in which bilateral exchange and

the interventions of the public authorities bring the negotiating parties to understand that engaging in dialogue offers the best prospects of reaching their goals.

## Social dialogue in the context of the crisis

In the early phase of the crisis (2008–2010), some EU Member States with robust industrial relations systems were in a better position to weather the economic and social impact of the crisis (Eurofound, 2012a). In the second phase of the crisis (2011–2014), however, there were many significant impacts on a range of aspects of industrial relations in the Member States, although in some cases it is hard to disentangle the impact of the crisis from other developments, such as longer-standing national industrial relations trends (or ‘megatrends’). The impact of the crisis has not been even across all groups or sectors. Even in Member States that have emerged relatively unscathed from the crisis, such as Austria, it is reported that the impact has been most severe on young and older workers (Eurofound, 2013b).

## Move towards decentralisation

Another – if not the clearest – result of the Eurofound research has been a multi-country trend towards further decentralisation in collective bargaining (see table). The late Franz Traxler distinguished between ‘organised’ and ‘disorganised’ decentralisation (Traxler, 1995). Organised decentralisation refers to increased company-level bargaining within the framework of rules and standards set by (inter)sectoral agreements, whereas disorganised decentralisation takes place outside such a regulatory framework of bargaining

coordination. It could be argued that decentralisation has been in train for some decades now, and that the crisis has merely accelerated the process, owing to the need for more flexibility and more tailoring of agreements to companies’ individual circumstances.

The only countries identified with a definite trend towards centralisation have been Finland and, to a limited extent, Belgium. In the Nordic and central-western European industrial relations regimes, decentralisation, if it has happened, has taken place in a more organised manner, whereas in the Member States under macroeconomic adjustment programmes, disorganised decentralisation seems to prevail. In some of the Member States, the combined effect of more unilateral decision-making by governments and decentralisation of collective bargaining has led to less multi-employer bargaining and a drop in collective bargaining coverage. In the central and eastern European industrial relations systems, a drift towards more voluntary and less tripartite or less neo-corporatist structures and processes seems to have taken place (Glassner, 2013). A decentralised national social dialogue also impacts on its European counterpart, especially when it comes to the implementation of autonomous agreements in accordance with the procedures and practices specific to management and labour and the Member States (Article 155(2) TFEU).

## New social actors

Some Member States, particularly those in the most difficult financial circumstances, have seen the emergence of new social movements and industrial relations actors, such as the 15-M movement in Spain. In Greece, recent

## Prevailing bargaining regime 2008 and 2013

|                       | 2008  | 2013  |                    | 2008 | 2013 |                       | 2008  | 2013  |
|-----------------------|-------|-------|--------------------|------|------|-----------------------|-------|-------|
| <b>Austria</b>        | MEB   | MEB   | <b>Germany</b>     | MEB  | MEB  | <b>Norway</b>         | MEB   | MEB   |
| <b>Belgium</b>        | MEB   | MEB   | <b>Greece</b>      | MEB  | MEB  | <b>Poland</b>         | SEB   | SEB   |
| <b>Bulgaria</b>       | Mixed | Mixed | <b>Hungary</b>     | SEB  | SEB  | <b>Portugal</b>       | MEB   | MEB   |
| <b>Croatia*</b>       | MEB   | MEB   | <b>Ireland</b>     | MEB  | SEB  | <b>Romania</b>        | MEB   | SEB   |
| <b>Cyprus</b>         | Mixed | Mixed | <b>Italy</b>       | MEB  | MEB  | <b>Slovakia</b>       | Mixed | Mixed |
| <b>Czech Republic</b> | SEB   | SEB   | <b>Latvia</b>      | SEB  | SEB  | <b>Slovenia</b>       | MEB   | MEB   |
| <b>Denmark</b>        | MEB   | MEB   | <b>Lithuania</b>   | SEB  | SEB  | <b>Spain</b>          | MEB   | MEB   |
| <b>Estonia</b>        | SEB   | SEB   | <b>Luxembourg</b>  | MEB  | MEB  | <b>Sweden</b>         | MEB   | MEB   |
| <b>Finland</b>        | MEB   | MEB   | <b>Malta</b>       | SEB  | SEB  | <b>United Kingdom</b> | SEB   | SEB   |
| <b>France</b>         | MEB   | MEB   | <b>Netherlands</b> | MEB  | MEB  |                       |       |       |

Notes: \*Croatia is not included in the ICTWSS, and for 2011 has been coded on the basis of the EurWORK country profile. MEB = Multi-employer bargaining (sector and/or the cross-sector level is predominant); SEB = Single-employer bargaining (establishment or company level is predominant). Countries that experienced a change in bargaining regime are shown in red.

Source: J. Visser, ICTWSS Database, Version 4, 2013; Eurofound, 2014a.

reforms allow a role for ‘associations of persons’ and many business-level agreements are now being drawn up by these associations established under the provisions of the new rules on collective bargaining. These associations may be created by three-fifths of the workforce at firm level, regardless of the total number of employees in the company and without imposing time limits on the duration of the collective agreements. New social movements and industrial relations actors have also surfaced in Portugal, Romania and Slovenia.

### Fall in collective bargaining

Other paradigmatic change has concerned collective bargaining and its related mechanisms: fewer extension mechanisms, more opt-out and derogation clauses, and less continuation of collective agreements on expiry. Eurofound has identified another dimension of decentralisation through the abolition of the ‘favourability principle’: the reversal of this principle in some Member States now often accords workplace agreements priority over higher-level agreements (Eurofound 2013b; Schulten, 2013). However, some Member States had already made earlier changes to the ‘favourability principle’ (for example, France) or to the introduction or increased use of opening clauses that were not directly linked to the crisis (for example, Germany). Some Member States cater for mechanisms of automatic continuation of collective agreements on expiry – for example, Spain (*ultraactividad*), Greece (*metenergeia*) and Portugal (*sobrevigencia*). These automatic prolongations have been revised in several Member States.

A combination of the above changes and the difficult general economic and financial environment led to a drop in the overall volume of bargaining, as well as to the conclusion of agreements of shorter duration, deemed to be more suited to the changing economic climate in uncertain times. It was argued that some of the above changes were necessary to increase the capacity of existing wage-setting arrangements to respond quickly and adequately to these changes.

## New European economic governance and wage-setting

There is considerable variation between Member States in the extent to which wage-setting mechanisms have been subject to change. Change has been concentrated among six Member States whose wage-setting mechanisms have each undergone multiple changes: Cyprus, Greece, Ireland, Portugal, Romania and Spain. In a further four countries, there have been some changes to wage-setting mechanisms: Croatia, Hungary, Italy and Slovenia. Wage-setting mechanisms in a majority of Member States have seen fewer changes since 2008, or none. The reasons for this stability include the relatively muted impact of the crisis in some Member States, the marginal role of collective bargaining to wage-setting in a few Member States and the capacity of existing wage-setting arrangements to respond to abrupt change in economic conditions triggered by the crisis (Eurofound, 2014a; Glassner et al, 2011).

### Government intervention

Some trends in decentralisation, such as the increased use of opening and opt-out clauses, were much more likely to result from negotiations between the social partners than from intervention by governments. Other changes involved clear governmental action and tended to mark a departure from existing arrangements. Government decisions were also to the fore in the changes to minimum wage-setting and indexation mechanisms that have taken place among a wider range of countries. In some Member States, the intervention of governments has recently resulted in an increase of minimum wage protection – for example, Croatia, Germany, Slovakia and Slovenia. While the impact of the memorandums of understanding (MoUs)

accompanying the financial assistance programmes on inducing changes to wage-setting mechanisms is clear, the influence of country-specific recommendations (CSRs) under the EU’s new European Semester macroeconomic planning regime is more variable. Nonetheless, as with requirements under the MoUs, a noticeable feature of the CSRs is the emphasis they place on collective wage-setting becoming more decentralised.

### Scale of adjustment

On the question of whether the severity of the impact of the crisis can be linked to industrial relations typologies, a case could be made that Member States in the Mediterranean cluster appear to have changed more than those in the Nordic or central European groups. It is, of course, difficult to disentangle the different threads here: the Member States in which the impact of the crisis has been most severe on industrial relations are also those where the crisis has had the most acute economic impact. The social partners in Greece, Ireland, Portugal and Spain, for example, have had little room for manoeuvre, given the scale of the economic adjustments these countries have had to make. Finally, academic experts argue that the industrial relations systems of Nordic and Central countries contain more potential flexibility for actors and processes (such as opening clauses in collective agreements), enabling them to adapt more readily to changes in the economic environment.

**Christian Welz and David Foden**

Note: This article is an abridged version of a background document prepared by Eurofound as a contribution to the informal EPSCO meeting in Riga on 22–23 April 2015. The full paper is available on request from [cwe@eurofound.europa.eu](mailto:cwe@eurofound.europa.eu)



## Social dialogue in micro and small companies



**When relaunching social dialogue at a high-level conference in Brussels in March 2015, the European Commission acknowledged the role of social partners – specifically, their active participation and their involvement in all policies. In the EU context, social partners are viewed as an asset that – in respect of the principle of autonomy and subsidiarity – can make a contribution to achieving a safer working environment, more and better jobs, and support for employment and growth. Where do micro and small companies fit into this picture? What are the factors that can lead to the development of good working conditions, a favourable health and safety environment and robust social dialogue in small businesses – and how can this lead to a win-win situation for all involved?**

The EU Better Regulation and REFIT programme has drawn attention to the environment in which (in particular) small and medium-sized enterprises (SMEs) have to operate. The programmes launched a debate to reflect on whether some elements of directives relating to social dialogue and the involvement of social partners – including on health and safety and information and consultation – are an unnecessary administrative burden.<sup>3</sup>

### Research lacking

Micro and small companies are crucial in terms of Europe's economic development and job creation: in the period 2002–2010, some 85% of all new jobs created in the EU were in SMEs and nearly six out of ten were micro companies. Given this,

it is surprising that very little research has been conducted into social dialogue in these companies as a way of contributing to good working conditions. Findings from Eurofound's fifth European Working Conditions Survey indicate that micro companies have the highest proportion of workers who report they are 'not very well' or 'not at all well' informed about health and safety risks; according to national surveys, in workplaces with employee representation structures the workers enjoy better working conditions than where there is no representation (Eurofound, 2012a). Eurofound's third European Company Survey found that 26% of small establishments had an official employee representation structure and nearly one-third of employee representatives in micro companies said they had no influence on management decisions in the area of occupational safety and health (OSH) (Eurofound, 2015d).

Eurofound research into social dialogue in micro and small companies has investigated social dialogue and labour relations in these companies, examined relevant legislative changes at Member State level, identified examples of good practice where social dialogue has worked well and analysed the drivers of success.

### OSH concerns

General workplace representation structures are present in micro and small companies in 22 Member States. Trade union representatives tend to be more prevalent than elected representatives; they also often carry out OSH duties in these companies. Employee representation bodies are often more prevalent in micro or small establishments belonging to a larger company or group, which exercises an 'invisible' influence in the type of governance. The work of employee interest representation bodies at company level is extremely demanding: SMEs tend to have a works council chair on a

part-time basis and there is a lack of personnel support resources. In many micro and small companies, the manager of the company is responsible for OSH management; as the manager is often not qualified in this area, outside company support has to be brought in. The increased need for external structures of support, information and advice on working conditions over the years may explain the lower identification with health and safety concerns in the company.

There are public policies to foster tripartite involvement (with public authorities and social partners) in micro and small companies – in terms of OSH policies, national strategies, sectoral-level safety partnership initiatives (in the construction sector, for instance), or coaching on OSH in the sector. Sectoral-level initiatives can take advantage of the social partners' greater knowledge of sector-specific situations. Relevant in this context also are the interprofessional training funds for financing the territorial-level training plans of micro and small companies.

### Company size

The study findings confirm that the presence of collective bargaining, company agreements and representation structures increases with the size of the company, but it is very difficult to map the general patterns of quality of social dialogue in micro and small companies. In some instances, the lack of formal structures could be compensated for by direct dialogue between employer and employee: there are some indications that the smaller the company, the more open and confidential the relations between employees and employer. A considerable number of micro and small companies operate outside the established participation model. It should be noted as well that the low level of trade union density and reduced company membership in employer associations is

<sup>3</sup> The REFIT Platform was set up by a Decision of 19 May 2015 to conduct an ongoing dialogue with Member States and stakeholders on improving EU legislation in the context of the Regulatory Fitness and Performance Programme.



not the best starting point to formalise an operational practice of structured social dialogue. Although it is not good to generalise, it could be stated that micro and small companies contain simultaneously elements of the best and the worst examples of social dialogue.

While OSH is one of the most important issues of social dialogue in micro and small companies, such companies frequently have less knowledge and fewer resources to deal with OSH. The research findings indicate in micro and small companies, that less training is offered, there is less knowledge of the role of OSH representatives and there are fewer workplace assessments.

### Good practice examples

The good practice examples reveal that a participatory style of leadership and management applied by the owner/manager, one based on mutual respect, is favourable for the development of social dialogue. Similarly, a type of work organisation based on teamwork, combined with a high degree of autonomy and responsibility for the individual worker, is most conducive to a more cooperative atmosphere based on

common interests. Another influencing factor is a company business model and competition strategy based on the quality of products/services and not solely on grounds of competition on the basis of prices and costs. Without doubt, companies face increased competition (in particular from low-cost competitors) but reputation and quality remain winning factors in a market where the consumer has become more critical in their decision-making. These company internal and external factors can influence the development of a sound social dialogue in a win-win strategy.

The current trend towards the decentralisation of industrial relations and collective bargaining has affected social dialogue in micro and small companies much more than in larger companies: ultimately, workers could elect to work in companies covered by collective bargaining rather than companies that are not in order to ensure better protection and working conditions for themselves. Good practice is very much shaped by the national industrial relations context and labour relations culture, which can either favour or obstruct social dialogue at company level.

In conclusion, working conditions in small businesses are characterised by great variation with industrial relations often taking place in an informal, unstructured way. Putting in place the necessary resources to overcome the difficulties faced by small businesses is crucial in order to gain real improvements in the quality of working conditions and industrial relations. Different actors have to work together to achieve joint interests, arrive at a shared understanding of the expectations of a win-win situation, and foster acceptance, mutual trust and understanding. An open-minded approach on the part of both employers and employees can facilitate a strong and pragmatic orientation towards problem-solving. Making the case that better working conditions through social dialogue can lead to better performance and recognising that the good health of the workforce is also good for business remain a challenge, which all actors – the research world and the social partners – have to address.

**Jean-Michel Miller**

## Social dialogue, tripartitism and bipartism at national level



**Social dialogue – whether conducted through tripartite concertation or bipartite dialogue in the Member States – is concerned with more than just topical issues: it also involves efforts to establish, readapt and revise the system of industrial relations. Eurofound's most recent comparative analysis of developments in collective bargaining in Europe found that most legislative changes made over the past two decades have in fact bolstered the collective bargaining process (Eurofound, forthcoming). This article – based on contributions from Eurofound's network of European correspondents – selects the most recent reforms and debates that are currently underway in the EU Member States.<sup>4</sup>**

### Strengthening tripartitism

Reforms of the industrial relations system are often made against a background of attempts to resolve deadlocks in concertation. In Lithuania, Malta, Poland and Romania, this has involved reforming the tripartite bodies with a view to strengthening tripartitism.

In the Czech Republic, the role of social partners was strengthened after the Czech government, in December 2014, changed the procedural rules for preparing legislation and statutory regulations. Under the new rules, the comments of social partners to draft regulations and guidance will be forwarded to the relevant Deputy Ministers who have proposed the amendments to the legislation; the government's Legislative Council is obliged to discuss the comments and address possible conflicts.

In Poland, following a long-standing stalemate in social dialogue, the deadlock

seems to have been overcome. New tripartite bodies – with an increased scope of responsibility – began operations in early 2015. Under draft legislation, it is proposed that a Social Dialogue Council will replace the Tripartite Commission on Social and Economic Affairs.

In Malta, a working group has proposed changes in the structure of the tripartite national institution for social dialogue – the Malta Council for Economic and Social Dialogue (MCESD). Its key recommendation was that MCESD should have administrative and financial autonomy. The working group also recommended that MCESD move away from the Ministry for Social Dialogue in order to assert its independence.

In Romania, further amendments to the law governing the Economic and Social Council (CES) aim to unlock social dialogue at sectoral level and revive tripartite dialogue through the National Tripartite Committee for Social Dialogue. Another goal is to enforce dialogue within the CES with third parties representing civic society (similar to that operating in the European Economic and Social Committee).

In Lithuania, proposals for a new social dialogue model were put forward in December 2014 and presented at the Parliament of the Republic of Lithuania (LRS) in May 2015. Under the new model, the current main national tripartite social dialogue institution, the Tripartite Council of the Republic of Lithuania (LRTT), would be replaced by the National Council. Moreover, the status of employer organisations would be defined by legislation, which should also establish representativeness criteria for social partner organisations, regulate relations between work councils and trade unions,

and provide better protection for the leaders of trade unions and works councils.

In Luxembourg, after signing a bilateral agreement with employer representatives, and another with trade unions, the Luxembourg government has been encouraging the social partners to revert to the country's former tradition of tripartite consultation. At the same time, tripartite meetings have been held as part of the framework process of organising the national response to the European Semester.

Similar debates have been underway in Finland, focusing on the role of social partners in the traditional tripartite setting. For over a year, the peak-level social partners have been in bilateral negotiations regarding a renewal of the collective bargaining system. In February 2015, the dialogue ended in deadlock due to disagreements on how to avoid illegal strikes. Negotiations to reform the social dialogue structure were expected to continue alongside the developments following the parliamentary election in April 2015. However, the new government, which took office in May, immediately put pressure on the social partners. In a move that is at odds with the Finnish tradition of tripartite consensus, the government has threatened to introduce additional austerity measures if the social partners do not agree to a 'social contract' to improve the country's competitiveness.

### Reinforcing bipartism

In Sweden, social partners have discussed ways to reinforce the bipartite model. On 3 October 2014, the Confederation of Swedish Enterprise (SN) and the Swedish Trade Union Confederation (LO) made a joint declaration to mark the opening of negotiations about how the Swedish model of social dialogue might be revised. Their stated position is that social partners – and not politicians – should

<sup>4</sup> See <http://www.eurofound.europa.eu/observatories/eurwork>. The information is based on contributions received up to 1 April 2015.

continue to be the key actors in regulating working conditions in the Swedish labour market.

At the same time, in France, reform of the funding of social dialogue has been proceeding. The Law of 5 March 2014 on Professional Training, Employment and Social Democracy provided for the creation of a new fund to support trade union and employer organisations in 'their role in the management of bipartite bodies (paritarism) and their participation in the design of public policy'. A decree of 31 January 2015 set out rules for how the fund would operate. Social partners in France have also recently expressed the need to discuss the future of national bargaining more generally, following the breakdown in January of negotiations on modernising social dialogue (on the 'quality and effectiveness of social dialogue in companies and improving worker representation').

## Reforming collective bargaining

A new law on the 'Promotion of collective bargaining autonomy' came into force in Germany in August 2014, introducing a new mechanism for simplifying the extension of sectoral minimum wage agreements. Previously, a collective agreement could only be declared generally binding if it covered more than 50% of the employees in a sector. Under the new law, the prerequisite for an extension is the condition that it is 'of public interest'; this will be the case if the agreement is vital for the protection of working conditions in a sector or for combating economic 'maldevelopment' – for instance, to prevent wage dumping. In March 2015, the bill on 'Collective bargaining unity' (Tarifeinheit) was introduced in parliament, stipulating that if more than one trade union concludes a collective agreement covering the same group of workers, only the agreement of the trade union that has the relative majority of members should be applicable. This has triggered a heated debate on whether the act will impact on the right of small trade unions to conclude applicable agreements and to go on strike.

For more information, see Eurofound (2015e).

**Christine Aumayr-Pintar**

## Building bridges: 20 years of EWCs

**European works councils (EWCs) provide transnational information and consultation mechanisms for employee representatives in multinational companies (MNCs). In organising meetings between central management and employee representatives from the EU Member States in which the companies operate, the EWC builds a bridge between the headquarters where strategic decisions are made and the workplaces where these decisions have a concrete impact on employees. This bridge-building takes place across different cultures, interests and levels. As there are information and consultation mechanisms at European level, and also at workplace level, the way these different levels work together determines their efficiency.**

### Legal framework

The information and consultation Directive (94/45/EC) applies to companies that have at least 1,000 employees in the European Economic Area, and 150 or more in at least two EU Member States (European Parliament, 2002). These companies are obliged to establish an EWC or some kind of agreed European mechanism for information and consultation, if employee representatives of at least two EU Member States request this. An EWC is established through negotiations with employee representatives from the MNC's European operations in a special negotiating body (SNB); this results in an EWC agreement establishing the terms of operation of the EWC. Only when the parties cannot come to such an agreement are the standard rules (the subsidiary requirements) applied. There is no doubt that having the subsidiary requirements in the background boosted the conclusion of voluntary agreements in the years before the entry into force of the national transpositions of the 1994 EWC directive in September 1996.

The EWC directive has evolved to become an important instrument of compliance with the European standards and practices shaping the European Social



Model. After 10 years of attempts to amend the EWC directive, on 6 May 2009 a recast EWC directive was adopted (2009/38/EC). By June 2016, the European Commission will present a report assessing the implementation of the recast directive.

### Window of opportunity

The period between the adoption of the recast directive in June 2009 and the entry into force of its national transpositions in June 2011 provided a window of opportunity to conclude new EWC agreements, discharging those EWCs and MNCs from the obligations of the recast EWC directive. The window of opportunity aimed to respect the autonomy of the social partners. It did not raise the number of newly established EWCs, as it had done in the period before the entry into force of the national transpositions of the 1994 EWC directive in September 1996. There appear to have been fewer new EWCs established each year since 2009, compared with previous years; the recast EWC directive, however, aims to facilitate the process of establishing new EWCs, by making information on the scope of a company more easily available to local workplace representatives and making local management responsible for disclosing this information in each workplace. In addition, the recast directive has provided for crucial support to SNBs in terms of granting an employee-only preparation meeting for SNB members, training for SNB members, as well as notification of ongoing negotiations to European trade unions and their expert assistance in SNB meetings.

A recent report from Eurofound, based on 10 longitudinal case studies, indicates that the window of opportunity did indeed trigger a considerable number of renegotiations of the agreements of existing EWCs (Eurofound, 2015a). There is, however, no evidence that the recast directive made these EWCs more effective within the period of the window of opportunity, since this could have happened before 2009, and also after 2012. It may be that some of the EWCs





had no real scope to become more effective, perhaps having already developed beyond the previous legal minimum requirements. This could be due to their having already implemented provisions on the training of EWC members, holding more than one annual plenary meeting or having further fine-tuned their information and consultation mechanisms. The potential impact of the recast directive had thus already occurred in part in these EWCs before it was adopted. As the case studies were based on interviews conducted in 2012, there is no evidence to show the recast directive has had an influence on the development of EWCs after 2012.

In any case, the legal developments that clearly influenced EWCs most in terms of their composition, representativeness and functional requirements were the successive enlargements of the EU and the subsequent European expansion of MNCs: these led to an increase in the number of employee representatives from different countries in EWCs.

### Impact of the crisis

None of the cases studied illustrates a direct impact of the crisis in terms of a reduction in EWC activities, such as cancelling or postponing an EWC meeting. EWCs were indirectly affected through company changes that the crisis set in motion. The companies hardest hit by the crisis were those in the financial sector, but substantial changes also occurred in some companies prior to and independently of the crisis. While such restructuring challenged EWCs, it also offered some an opportunity to clarify their information and consultation procedures.

As regards other factors, the study investigated whether the size of the MNC's workforce and the degree of its internationalisation might also have a bearing on the development of EWCs. In terms of the degree of internationalisation, a greater number of companies in an MNC means a greater number of countries from which representatives must be included in the EWC. Regarding workforce size, delegates from countries with smaller workforces do not have the same opportunities as representatives from the home country or from countries with larger workforces to participate in and contribute to the development of the EWC. The study also found that the more internationalised the management decision-making or the smaller the workforce in the MNC's home country, the greater the level of interest of home-country employee representatives in the EWC's activities. Opportunities for EWCs to autonomously develop a proper European identity are improved when the key roles on both the management and employee representative sides are given to delegates from countries other than the home country. Certain company characteristics and how these change can influence developments in the composition or functioning of EWCs. However, for the companies in this study, this has been more of an ongoing trend than a result of the recast directive or of the recent crisis.

### Fine-tuning the parameters

Renegotiations of EWC agreements offer the opportunity to fine-tune the parameters of an EWC in terms of its composition, the number of meetings, the duration of the meetings, the internal

structure or the role of the select committee. The report shows that the largest potential impact of an agreement renegotiation on the functioning of an EWC can occur when it is triggered by mergers or acquisitions of companies that both have EWCs already. Company changes can also increase the turnover among EWC membership, potentially impeding the development of cooperation, which is central to the effectiveness of the EWC.

The research shows that the investment and efforts that employee representatives and management make to develop an EWC depend on how they assess its function. Most of the significant developments in the functioning of the EWCs studied were due to the continuous efforts of committed EWC members to overcome cultural differences, challenge company changes and resolve them through increasing cooperation, building trust and seeking a common understanding of the appropriate ways for the EWC to handle change.

As for the management perspective, interesting developments were reported for two companies where a European human resource network was developed in parallel to the EWC. This demonstrates that the efforts made by management and employee representatives to further develop their EWCs can benefit both sides. The practices presented in the EWC case studies in the report are examples of innovative industrial relations practices in a win-win context.

For more, read Eurofound (2015a), *European Works Council developments before, during and after the crisis*.

**Peter Kerckhofs**

# Role of social dialogue in industrial policy



**Financial turmoil and the increasing globalisation of value chains have focused attention on how to stimulate economies across Europe by revitalising industrial policy. However, existing policy instruments need to be aligned to the realities of global competition and evolving technologies. The role of the state in this process is crucial, but it is clear the social partners also have a role to play. What instruments of industrial policy are currently used in Europe? What is the role of social dialogue and of the social partners in shaping them? How can social dialogue play a proactive role in the current landscape of policymaking?**

Based on findings from a study by Eurofound's network of European correspondents, a Eurofound report, *Role of social dialogue in industrial policies*, sought to answer these questions. Its analysis is supplemented by interviews carried out with representatives of both sides of industry in six selected sectors: automotive, defence, food, chemicals, steel, and textiles.

## Policy framework

The Europe 2020 Strategy has an explicit focus on industry and puts forward a modern industrial policy for Europe, calling for close collaboration between different sectoral stakeholders at both European and national level. The 2012 Commission Communication *A stronger European industry for growth and economic recovery* set out a new approach to the EU's industrial policy by delineating clear and concrete measures that combine both horizontal and selective policies in a strategic manner. The 2014 Commission Communication *For a European industrial renaissance* affirms that a strong industrial base is central to the recovery of the European economy and its position in the global market, pointing to the key role of the Member States and other relevant actors in implementing reforms.

## Focus on recovery, innovation and restructuring

Industrial policy appears to have reignited across many EU Member States in the aftermath of the crisis, as a strategy to re-activate growth, create jobs and foster productivity. Belgium, Luxembourg and Spain were shown to have comprehensive industrial policy strategies (with a cross-sectoral focus) to drive recovery from the crisis and bring about innovation and industrial growth. Other countries have introduced horizontal policy initiatives aimed at increasing competitiveness or fostering technological innovation.

The industrial policy instruments in place in the Member States can be categorised in two main groups: horizontal or cross-sectoral instruments, and those applicable to selected sectors. The former can be related to specific themes or policy domains, such as training and education, manufacturing and productivity, tax and trade. The latter (targeted or sectoral) industrial policy instruments are aimed at strengthening specific strategic productive sectors and can involve channelling investment in research and development (R&D) into specific technologies or products, creating jobs in the entire value chain, attracting skilled labour in specific sectors, and increasing the technical skills profile of the workforce to meet the needs of strategic sectors.

While innovation appears to be a key component of the emerging industrial policy agenda, there is substantial variation in the way this is pursued by Member States. Some national policies include a focus on SMEs (as in the Czech Republic) or a regional dimension, such as Denmark's regional councils and clusters of companies in Austria and Romania.

Restructuring and its effects are often linked with industrial policies. Most of the national examples come from the central and eastern European countries and often include funding from European regional and development funds. An example from Poland illustrates a joint effort by the

social partners to put in place a restructuring programme.

## Degree of involvement

Overall, social partners' involvement in the industrial policymaking process (particularly that of trade unions) has been quite limited. Examples of consistent and robust involvement in industrial policy emerge from countries belonging to the so-called 'social partnership regime' of industrial relations: Austria, Belgium, Germany, Luxembourg, the Netherlands and Slovenia. However, during the crisis even the Nordic countries – which usually display high levels of tripartitism in the process of policy development – have seen these arrangements come under pressure. Those countries particularly affected by the sovereign debt crisis demonstrate a very low degree of social partner involvement. In the central and eastern European countries, involvement is mixed: some countries (such as Estonia and Romania) benefit from social partner engagement in the process, leading to robust industrial policy initiatives; others (such as Bulgaria, the Czech Republic and Slovakia) show limited engagement even when structures are already in place.

The study shows that the degree of social partner involvement in industrial policy at national level is influenced by the institutional characteristics of the industrial relations regimes in those countries and is more substantial in the formulation of horizontal policy initiatives than in targeted, sectoral initiatives.

With the evolution of the European industrial policy agenda, the number and type of industrial policy instruments initiated at EU level has expanded greatly. Focusing on six sectors at EU level – automotive, defence, food, chemicals, steel and textiles – the study found that innovation policy and R&D are the most widely used instruments. The most encompassing form of social partner involvement is that of high-level groups, essentially multi-stakeholder groups, which overall are favourably viewed by the social partners.

## Agenda shift

In terms of the role of European sectoral social dialogue in industrial policy, it appears that there is a shift in the agenda setting: while training and adapting the skills base and the social consequences of restructuring are still important, other issues such as innovation, access to raw materials, R&D and access to finance have risen higher on the agenda, enlarging the scope of the European sectoral social dialogue committees. Moreover, the social partners have produced joint reports and taken own initiatives on industrial policies, which have facilitated policymaking.

Involving the social partners in formulating and implementing policy at both national and European level can harness expertise and experience in labour market, social and industry domains, which in turn can increase the robustness, relevance and timeliness of industrial policy initiatives.

Overall, the analysis points to the potentially increased importance of social dialogue in industrial policies, but it also calls for new ways of working for both policymakers and social partners.

## Harnessing strengths from both sides

The study points to the ongoing pressures of globalisation and the economic crisis, which have put social dialogue under strain and created a tendency for governments to decide and implement interventions very quickly, often without properly consulting the social partners. This is particularly evident where sectoral initiatives are taken.

For policies to be robust, coherent and effective, national instruments should benefit from the social partners' industry-specific knowledge and enhance awareness and alignment among social partners and other industry actors. Trade unions can provide important insights into the skills of the labour force, and their involvement will facilitate the commitment of workers to political goals and objectives and help foster innovative approaches from the shop floor up. Employer organisations can bring valuable data and analysis of the dynamics at the policy level. The positive results of European sectoral social dialogue in the sectors examined call for a sharing of that experience among all

interested sectors and the use of their outcomes at policymaking level.

One way of developing industrial policies so that they address the challenges of globalisation is to introduce a systemic approach that can encompass a variety of instruments and work across sectors. In developing such an approach, the knowledge of the social partners can be crucial – as it is for the implementation of programmes as well.

With ambitious social and environmental goals set at EU level and in the face of common problems confronting European industries (not least, scarce natural and energy resources), the coordination of industrial policies at EU and national level can contribute to a true European industrial renaissance.

### **Stavroula Demetriades**

Note: This article is a summary of the report *Role of social dialogue in industrial policies* (Eurofound, 2014b); a version of it was previously published in the EU Social Dialogue Newsletter No. 6 – March 2014.



## Social partner organisations – the long march towards gender equality



Despite the almost 60-year-old commitment to the goal, gender equality is far from being achieved in the European Union. The 'moving targets' – labour market participation, employment and unemployment rates, and other quantified objectives – do not make attaining gender equality across Europe any easier. Furthermore, there has been, at least in some academic and social circles, an evolution regarding the nature of the measures to be taken, with some experts suggesting that it might be better to shift from women-focused measures to more encompassing ones, addressing the situation of both men and women.

### Role of social partners

Social partners, as with other key actors in society and policymaking positions, have a crucial role to play in improving the overall situation of equality – specifically gender equality, both in society at large and, particularly, at the workplace. As Eurofound's report on *Social partners and gender equality in Europe* confirms, national peak-level social partner organisations have been to the fore in promoting gender equality, albeit by focusing more on external actions affecting the labour market and wider society and less on internal structures (Eurofound, 2014c).

The message stemming from the EU regulations could not be clearer: social dialogue between the social partners is extremely important for the promotion of equal treatment of men and women in matters of employment and occupation. It is part of the recast Equal Treatment Directive (Directive 2006/54/EC), which consolidates in a single text all the rules and case law of the European Court of Justice relating to equal opportunities and equal treatment for men and women in employment and occupation. This has

been followed up by the ongoing commitment shown by the European cross-industry social partners to tackle gender inequality in work and employment.

### Policy approaches

While the issue of persistent segregation in the labour markets is easy to grasp, the main difficulty regarding gender equality is defining the concept, which naturally has implications for the type of policy measures needed to address the issue.

Some gender equality measures focus on 'equality of opportunity' while others focus on 'equality of outcomes'. The former see gender equality as part of broader diversity and inclusion strategies with the objective of ensuring equal rights and opportunities for all, irrespective of gender. In the latter, the definition focuses more on the concept of equality of outcomes, where gender equality depends on the comparison of results achieved by women and men (for example, in terms of representation or pay).

Nevertheless, social partner organisations do not apply such a clear-cut distinction when devising measures, tending to pursue and implement an amalgam of concepts and policies.

### Country differences

In terms of the priorities of peak social partner organisations, the research identified three groups of countries. In a handful of countries (Bulgaria, Estonia, Latvia and Poland), gender equality is not a stated priority for social partner organisations and therefore no specific commitments have been developed. The remaining Member States are split into two groups: social partner organisations having either 'relatively well-developed activities' on gender equality issues (18 countries) and those with 'unilateral activities' (6 countries). Interestingly, the group with well-developed activities falls into two categories. In the first, equality issues feature among the strategic objectives of at least one organisation of each side of industry. In the second, the importance given to gender issues extends across all partners: this is the case in Austria, Finland, Ireland, Sweden and the UK. Unilateral activities are mainly developed by trade union organisations.

It is worth stressing that, beyond the general level of engagement on gender equality issues (measured, for example, through the Gender Equality Index developed by the European Institute for Gender Equality) and the specific features

### Different gender equality focus leads to different policy measures

| Focus                       | Aim  | Policy commitments  |
|-----------------------------|--|---|
| <b>Equal opportunities</b>  | Ensuring equal rights and opportunities for all based on merit | <ul style="list-style-type: none"> <li>Ensuring access to the labour market and appropriate skills for women and effective family-friendly legislation</li> <li>Differences between men and women attributed to gender identity acquired over the lifetime and learning experience</li> <li>Male norm remains the standard</li> </ul> |
| <b>Equality of outcomes</b> | Same results achieved by women and men                         | <ul style="list-style-type: none"> <li>Supporting special measures to bring women to the levels already reached by men (in pay, for example)</li> <li>Acknowledging that men and women have different contributions in gender-segregated societies</li> <li>Special measures for the advancement of women</li> </ul>                  |

Source: Eurofound, 2014c

of different industrial relations systems, the main reason for relatively low levels of activity on gender equality issues is the declining level of importance accorded to those issues since the beginning of the crisis. Despite the general buy-in to the equality principle, it is seen by the social partners as less deserving of prioritisation when more pressing issues, such as the risk of redundancy and policy changes affecting working conditions, are on the agenda.

## Positive actions

There is a growing awareness that promoting gender equality within the social partner organisations themselves can positively affect the shaping of external policies while setting a good example for the wider labour market.

Many organisations have a specific body or department responsible for gender issues. This is the case in trade unions in 21 Member States and in employer organisations in seven. These departments, reflecting the importance given to gender equality issues by the organisations, can play a key role in facilitating gender mainstreaming, both within the organisations and in activities related to collective bargaining. In many other cases, social partner organisations (mostly trade unions) have developed and implemented several measures to promote internal gender equality. For example, some organisations have introduced quota systems. Despite being a very controversial measure, the quota systems aim to bring more women into decision-making roles and to balance the participation of men and women in the executive bodies. Trade unions in Austria, Croatia, France, Germany, Italy, Portugal, Spain and the UK have introduced such measures.

Some organisations implement gender-awareness training activities on collective bargaining negotiations, social dialogue or policymaking in general. Other organisations, again mainly trade unions, have been introducing family-friendly enhanced policies for their own staff, sometimes even emphasising the family-leave rights of fathers or measures favouring a good work–life balance. The development of handbooks or guidelines is also part of the relatively limited range of activities.



## Road blocks in the way

Nevertheless, there are many hurdles preventing the social partners from achieving a more balanced participation of women and men in decision-making roles and from implementing effective gender equality actions, particularly internally. Apart from scant resources and limited knowledge on how to promote gender equality, social partner organisations face other significant challenges.

The removal of de jure barriers to women accessing decision-making positions in social partner organisations has proven insufficient because de facto barriers still exist. A good example of the latter is the lack of commitment and unwillingness to prioritise gender equality issues – often associated with the relatively small representation of women in top positions in the social partner structures. In addition, there is also gender stereotyping in relation to the roles of men and women in social partner organisations: for example, in sectors predominantly occupied by men, it seems more difficult for gender issues to find their way onto the agenda.

Other challenges are less visible. While some social partner organisations advocate a gender-neutral approach for policies or programmes to avoid having an unequal (even if unintended) outcome on women and men, internally they continue to accentuate stereotypes regarding the division of roles of women and men in society. The reality is that the top-level decision-making positions in

social partner organisations are still predominantly held by men: according to data from the European Commission's Directorate-General for Justice, women in 2014 held just 15% and 6% respectively of presidential positions in workers' and employers' national social partners' peak organisations (European Commission, 2015b). Moreover, there is a serious risk of thinking that attaining equal representation of women and men at a decision-making level is synonymous with achieving gender equality and consequently overlooking the structures on the ground that could encourage a more balanced participation of men and women.

## Uphill journey

The European Union still has a long way to go on the road towards gender equality. Social partner organisations are important players but certainly not the only ones that must embark on this journey to achieve this goal. Public authorities also have their part to play. Most importantly, all women and men should be invited to undertake this journey, revising their respective roles and contributing to promoting equality.

**Jorge Cabrita and Isabella Biletta**

## Val Duchesse – revisited



**From the Treaty of Paris onwards, it took more than 30 years before the next decisive step was taken to promote Community social policy. The roots of European social dialogue, strictly speaking, date back to the 1970s, when the Community social partners were consulted on European-level issues on an ad hoc basis.**

In 1984, under the then French Minister for Employment, Pierre Bérégovoy (France holding the Presidency of the Council of Ministers at the time), the European social partners met three times in a row in Val Duchesse, Belgium, in order to discuss the possible outline of a European social dialogue. The outcome of these first meetings was not very productive. The aspirations of the Union of Industrial and Employers' Confederations of Europe (UNICE, now BusinessEurope) and the European Trade Union Confederation (ETUC) with regard to the objectives of the European social dialogue were diametrically opposed. While ETUC was striving to accomplish full-fledged collective agreements, UNICE did not want to go any further than formulating general common orientations. These conflicting positions have not changed much in the course of the development of a more sophisticated European social dialogue. Some observers also blame the failure of the 'Bérégovoy round' on the dispersion of the social partners who were invited to the talks.

From 1985 onwards, at the initiative of Commission President Jacques Delors, social dialogue took on a more autonomous and bipartite form in the

preparatory phase of the Single Market. This fundamental change may be dated to 31 January 1985, when the EU-level social partners were invited to participate in a high-level meeting in Val Duchesse.<sup>5</sup> In contrast to Bérégovoy, Jacques Delors dispatched invitations only to the General Secretariats of ETUC and UNICE. The goal of the meeting was to reaffirm the importance of the social partners in the European integration process, which had been relaunched with the implementation of the Single Market programme. It was Jacques Delors' firm conviction that the Single Market programme had to correlate with a social dimension of the European Community: the cornerstone of this social Europe would be the European social dialogue. For the first time, a President of the European Commission took responsibility for uniting the leading social partners by giving them an essential role in the multi-level game of 'Community chess'.

This proved to be the first step in what became known as the Val Duchesse period of dialogue (1985–1993), characterised by bipartite social partner activities consisting mainly of joint opinions, resolutions and declarations. The Val Duchesse I delegation was composed of 39 members: six from the Commission, 18 trade union representatives and 15 employer representatives. UNICE had a stronger preference for EU-level representatives (having seven), whereas ETUC was represented only by its president and the secretary-general (two).

Finally, it is interesting to note that all the key Commission actors of the early phase of the Val Duchesse process had a strong trade union background. Delors was a former trade unionist with the French Christian Workers' Confederation (CFTC); his social affairs adviser Patrick Venturini and François Staedelin – later President of the European Economic and Social Committee and, according to Delors, one of the 'prime movers' of the Val Duchesse process – were affiliated with the French Democratic Confederation of Labour (CFDT); and finally, Jean Degimbe, Director-General of DG Employment and Social Affairs, had links with the Belgian Christian trade unions.

The social partners agreed to engage in deepening the social dialogue. At a second meeting, on 12 November 1985, they decided to convene two joint working groups: one on macroeconomics; and another on social dialogue and the impact of new technologies. The macroeconomic working group produced a joint opinion on the strategy of cooperation for growth and employment (1986) and a yearly economic report (1987). The social dialogue and new technology working group delivered a joint opinion on the training, motivation, and information and consultation of workers (1987). In contrast to the tripartite conferences, the Val Duchesse process focused on the autonomous bipartite dialogue between the social partners. The national governments were largely eclipsed and the role of the Commission was that of a catalyst and interface between management and labour.

<sup>5</sup> The castle of Val Duchesse is a former priory in Auderghem in the Brussels Capital Region of Belgium. Since the historic 1985 meeting, 'Val Duchesse' has become synonymous with the second phase of the European social dialogue and its actual kick-off.

The greatest achievement of the Val Duchesse process, however, was the outcome of the negotiations at Maastricht, which produced the 1992 Treaty on the European Union. Most of the substance of the social provisions, which eventually became the Agreement on Social Policy (ASP) between 11 Member States, was the result of negotiations initiated at Val Duchesse and culminating in the agreement dated 31 October 1991 between ETUC and UNICE/CEEP on a new draft of Articles 118(4), 118A and 118B of the Treaty of Rome (now articles 154 and 155 TFEU). With few modifications, the 11 Member States adopted this agreement as the basis for the future labour and social law of the European Union. The social partners' agreement of 31 October 1991 introduced a fundamental paradigm shift in the Community legislative process of social policy and industrial relations. The ASP instated the EU-level social partners as co-legislators, a role which was formerly reserved for Community institutions. Of the then twelve EU Member States, only the UK rejected the ASP, which gave rise to a twin-track Europe in the field of social policy and industrial relations. On the first track, all twelve Member States would continue to fall under the scope of the commonly revised social provisions of the EC Treaty. On the second track, by agreement from all twelve Member States, eleven Member States could adopt legal

acts on social policy and industrial relations based on the ASP, including the new social dialogue process. Despite the installation of a twin-track social Europe, the Protocol on Social Policy should be seen as the culmination of the Val Duchesse process, started in 1985, and as one of the major accomplishments of the former President of the European Commission, Jacques Delors. The election of a Labour Government in the UK in May 1997 led the UK to opt in, and the Treaty of Amsterdam, approved by the European Council on 16 and 17 June 1997, provided for the provisions of the ASP to be incorporated into the EC Treaty (articles 138 and 139 EC), thus terminating the Protocol on Social Policy.

According to one commentator, it was mainly the numerous British vetoes in the social policy domain that incited Delors to initiate this alternative approach of policymaking through social dialogue (Bercusson, 1995; Lapeyre, 2015). From the Commission's point of view, the Val Duchesse process aimed at neutralising opposition from some Member States to a social dimension of the interior market by activating the national and European interest organisations for the common European cause. This argument corroborates the neo-functionalist approach of interpreting the origins of social dialogue as the paradigm of cultivated spill-over – that is, political

engineering stemming from the European Commission.<sup>6</sup> At the same time, the Val Duchesse process is also a piece of evidence supporting the theoretical assumption that mutual learning is a key factor in the process of the Europeanisation of industrial relations.

The intimate involvement of management and labour in policy networks resulted in a revised definition of interests and preferences. Many of the personalities representing management and labour at Val Duchesse had never met their counterparts from the other Member States before. The Val Duchesse meetings increased the convergence of both sides of industry, which gradually started to acknowledge the usefulness of social partnership. This view is corroborated by Zygmunt Tyszkiewicz, the former Secretary General of UNICE, who stated: 'It is certain that without the learning process provided by the "Joint Opinion" phase, when the Social Partners really got to know and respect each other, the agreement of 31 October 1991 would never have been reached' (Tyszkiewicz, 1998).

#### **Christian Welz**

Note: This article is an updated extract from Welz (2008).

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<sup>6</sup> Neo-functionalism is a theory of regional integration.







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