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24

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

Transnational Industrial Relations in Europe

edition der
Hans **Böckler**
Stiftung ■■

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

Transnational
Industrial Relations
in Europe

edition der Hans-Böckler-Stiftung 24

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LIST OF CONTRIBUTORS	5
-----------------------------	----------

PREFACE	9
----------------	----------

Gerda Falkner:

THE INSTITUTIONAL FRAMEWORK OF LABOUR RELATIONS AT THE EU-LEVEL: PROVISIONS AND HISTORICAL BACKGROUND	11
--	-----------

Berndt Keller:

THE NEW EUROPEAN EMPLOYMENT POLICY OR: IS THE GLASS HALF FULL OR HALF-EMPTY?	29
---	-----------

David Soskice:

WAGE DETERMINATION IN EMU	45
----------------------------------	-----------

Reinhard Kuhlmann:

COORDINATION OF COLLECTIVE BARGAINING POLICY IN THE EUROPEAN METALWORKING SECTOR: A RESPONSE TO THE CHALLENGES POSED BY THE EURO	53
---	-----------

Reiner Hoffmann and Emmanuel Mermet:

WAGE COORDINATION IN THE EUROPEAN UNION: CHALLENGES FOR THE COORDINATION OF COLLECTIVE BARGAINING	63
--	-----------

Manfred Weiss:

WORKERS' PARTICIPATION: A CRUCIAL TOPIC FOR THE EU	85
---	-----------

Wolfgang Hermann and Otto Jacobi:

**AMBASSADORS OF THE CIVIL SOCIETY:
PRACTICE AND FUTURE OF EUROPEAN WORKS COUNCILS 95**

Jeremy Waddington and Jürgen Hoffmann:

**THE GERMAN UNION MOVEMENT IN STRUCTURAL TRANSITION:
DEFENSIVE ADJUSTMENT OR SETTING A NEW AGENDA? 113**

Gerhard Leminsky:

MANAGERS OF CO-OPERATIVE CHANGE – TESTED IN CONFLICT 139

Jesper Due, Jorgen Steen Madsen and Nikolaj Lubanski:

**NORDIC LABOUR RELATIONS:
BETWEEN NATIONAL AUTONOMY AND EU INTEGRATION 149**

Béla Galgóczi:

**INDUSTRIAL RELATIONS IN CENTRAL EASTERN EUROPE
IN THE PERSPECTIVE OF EU ENLARGEMENT 177**

Margarete Hasel:

HANS-BÖCKLER-STIFTUNG 189

ETUI: BASIC INFORMATION 193

Jesper Due, Director

F A O S – Employment Relations Research Centre
University of Copenhagen
Linnésgade 22, DK-1361 Copenhagen K
Phone: ++45 – 3532 3299
Fax: ++45 – 3532 3506
Email: jd@faos.dk

Gerda Falkner, Research Professor

Max-Planck-Institut für Gesellschaftsforschung
Paulstr. 3, D-50676 Koeln
Phone: ++49 – 221 – 2767 182
Fax: ++49 – 221 – 2767 555
Email: falkner@mpi-fg-koeln.mpg.de

Bela Galgóczi, Free lance researcher; Deputy director of the Research Institute for Social Studies and Senior Economic Advisor to the Hungarian Ministry for Environmental Protection and Regional Development

Ora utca 14
H – Budapest
Phone: ++361 – 301 41 94 and 274 41 52
Fax: ++361 201 25 82

Margarete Hasel, Editor of “Die Mitbestimmung”

Hans-Boeckler-Stiftung
Bertha-von-Suttner-Platz 1, D-40227 Düsseldorf
Phone: ++49 – 211 – 7778 192
Fax: ++49 – 211 – 7778 – 225
Email: Margarete-Hasel@boeckler.de

Wolfgang Hermann, Trade union official

Deutsche Angestellten-Gewerkschaft DAG

Bockenheimer Landstr. 72 – 74, D-60323 Frankfurt am Main

Phone: ++49 – 69 – 719 116 53

Fax: ++49 – 69 – 719 116 60

Email: Wolfgang.Hermann@dag.de

Juergen Hoffmann, Professor of Economics

Hochschule fuer Wirtschaft und Politik

Von-Melle-Park 9, D-20146 Hamburg

Phone: ++49 – 40 – 481752

Email: Hoffmannj@hwp.uni-hamburg.de

Reiner Hoffmann, Director E T U I

Bld. du Roi Albert II, 5 boite 4, B-1210 Brussels

Phone: ++322 – 2240 500

Fax : ++322 – 2240 513

Email:RHoffman@etuc.org

Otto Jacobi, Temporary Professor at the Fachhochschule Darmstadt

Free lance economist at Laboratorium Europa

Grüneburgweg 150, D-60323 Frankfurt am Main

Phone: ++49 – 69 – 597 0710

Fax: ++49 – 69 – 55 21 86

Email: Otto.Jacobi@T-Online.de

Berndt Keller, Professor of Labour and Social Policy

Universität Konstanz

Universitätsstr. 10, D-78434 Konstanz

Phone: ++49 – 7531 – 88 29 24

Fax: ++49 – 7531 – 88 41 03

Email: Berndt.Karl.Keller@Uni-Konstanz.de

Reinhard Kuhlmann, Secretary General

European Metalworkers' Federation (EMF)

Rue Royale 45, B-1000 Brussels

Phone : ++322 – 2271019

Fax : ++322 – 2175963

Email : rkuhlmann@emf-fem.org

Gerhard Leminsky, Former Director

Hans-Boeckler-Stiftung

Bertha-von-Suttner-Platz 1, D-40227 Düsseldorf

Phone: ++49 – 211 – 7778 151

Nicolaj Lubanski, Assistant Research Professor

F A O S – Employment Relations Research Centre

University of Copenhagen

Linnésgade 22, DK-1361 Copenhagen K

Phone: ++45 – 3532 3299

Fax: ++45 – 3532 3506

Email: nl@faos.dk

Jorgen Steen Madsen, Head of Research

F A O S – Employment Relations Research Centre

University of Copenhagen

Linnésgade 22, DK-1361 Copenhagen K

Phone: ++45 – 3532 3299

Fax: ++45 – 3532 3506

Email: jsm@faos.dk

Emmanuel Mermet, Researcher at the ETUI

David Soskice, Director of the research unit "Economic Change and Employment"

Wissenschaftszentrum Berlin für Sozialforschung

Reichpietschufer 50, D-10785 Berlin

Phone: ++49 – 30 – 25491 105

Fax: ++49 – 30 – 25491 480

Email: soskice@medea.wz-berlin.de

Jeremy Waddington, Senior Lecturer at the Industrial Relations Research Unit
of the University of Warwick and Project Coordinator for the ETUI

ETUI

Bld. du Roi Albert II, 5 boîte 4, B-1210 Brussels

Phone: ++44 – 1925 601653

Email: Jeremy.Waddington@virgin.net

Manfred Weiss, Professor of Labour Law

Universität Frankfurt.

Senckenberganlage 31, D-60325 Frankfurt am Main

Phone: ++49 – 69 – 798 22731

Fax: ++49 – 69 – 798 22323

Email: M.Weiss@jur.uni-frankfurt.de

A World Congress of the IIRA is an excellent opportunity to communicate experiences with recent developments in different parts of the world. In order to facilitate this exchange of ideas a group of German experts (Reiner Hoffmann, Otto Jacobi, Berndt Keller and myself) initiated volumes containing a set of articles on trends in German and European industrial relations. Whereas the first volume presented at the Washington Congress in 1994 mainly was dealing with the German situation and only to a limited extent with the European one, the second volume for the Bologna Congress 1998 already contained a more balanced mix of articles on Germany and Europe. The new volume for the Tokyo Congress even goes a step further: it is exclusively dedicated to the European scene. This change of perspective reflects the fact that Europe in the meantime has reached a stage where it does no longer make too much sense to analyse national systems in splendid isolation: they have to be put into the European context. The development of structural elements for a European industrial relations pattern has become an even more urgent task in view of the introduction of the European monetary union. Whether and how far collective bargaining can be coordinated throughout Europe or whether the trade unions are already in a stage to be a relevant actor on European level, are burning questions to be asked. The impact of already existing patterns of workers' participation on the spirit of European industrial relations has to be reflected. The still dramatic unemployment situation has led to a joint job creation strategy on EU level whose functioning needs careful analysis. In view of the forthcoming enlargement of the EU it has in addition become of utmost importance to reflect on the question how the industrial relations systems of the newcomers can be integrated in the already existing pattern. These and other aspects of the generation of a European industrial relations machinery are dealt with in this Tokyo volume.

The European Regional Congress of the IIRA in Oslo in 2001 will take up this perspective and discuss in three tracks the visions and realities of a European industrial relations scenery. One of the tracks of the next World Congress in 2003 in Berlin will focus on "European Integration: Convergence or Diversity?". The editors and authors of this volume hope and wish that the material presented herein might be of some help in the preparation of these events. I would be pleased if I would have the privilege to meet many of the participants of the Tokyo Congress next year in Oslo and two years afterwards in Berlin where the problems of European integration can be studied on the spot.

Also on behalf of the other co-editors I would like to express my sincere thanks to the Hans- Boeckler-Foundation and the European Trade Union Institute for their support which they have provided in a generous and unbureaucratic way as they already did in the preceding two volumes.

Manfred Weiss

President elect of the IIRA

Gerda Falkner

THE INSTITUTIONAL FRAMEWORK OF LABOUR RELATIONS AT THE EU-LEVEL: PROVISIONS AND HISTORICAL BACKGROUND

1. INTRODUCTION

The ‘social dimension’ of European integration is often regarded in its law-making dimension only. At a closer look, however, it seems to be as much a polity-creating process as a law-making one. Hand in hand with the incremental development of policies, notably in the social sphere, new consultative forums were created and new actors were induced to participate in the Euro-level policy process.

This chapter will give an overview on how labour and management over time got involved in the making of EU decisions, particularly on social and labour law issues. It will furthermore analyse why the major associations of worker and employer unions finally even became formal co-actors under the Maastricht Treaty.¹

2. INTEREST GROUPS IN EU-LEVEL POLITICS PRIOR TO THE MAASTRICHT TREATY

2.1 From Rome to Mid-1980s

Up to the 1990s, the Treaty Establishing the European (Economic) Community (EC) did not give to the organised interests of labour and industry a special role in decisions on social issues. The Council was the sole (and after the Single European Act for the area of worker health and safety: the prime²) legislator, and there was a strict boundary between public and private actors in decision-taking. The ECOSOC (Economic and Social Committee) which includes nationally nominated representatives of the employers, the workers, and various other interests, had a consultative function such as in most

1 For a more detailed account see the author’s book on which this article is based: *EU Social Policy in the 1990s: Towards a Corporatist Policy Community*, London: Routledge (Falkner 1998).

2 Under the so-called co-operation procedure (Article 189c old, now Article 252, EC Treaty), the European Parliament (EP) was given a greater role. The Council could no longer decide against its strict opposition to a measure.

other areas of European integration. It was only involved in the decision-making process by delivering non-binding 'reasoned opinions' on policy proposals.³

Parallel to the incremental development of a 'social dimension' of European integration from the early 1970s onwards, a social 'policy network' emerged at the EC level. It included – apart from members of the EC institutions – also private interests and specialised agencies. This process was actively promoted by the European Commission and often formalised by the Council. A major incentive was to broaden expertise. It seemed useful to extend the array of special interests open for consultation. The ECOSOC, which had been the only element of public–private interplay provided for under the Rome Treaty, did not work quite satisfactorily (see e.g. Lodge and Herman 1980: 284; Streeck and Schmitter 1991: 202ff; Gorges 1996: 34ff). Its low political impact is mainly due to the ideological split between ECOSOC's three parties (employers, employees, and various interests) which has, in many cases, deprived the Committee of a good basis for compromise. In practice, this has meant that the results of cumbersome decision-making processes have lacked coherence and/or any definitive status.

The widening of the actor constellation in EC social policy therefore seemed a promising enterprise to the Commission, especially when an economic and monetary union was discussed for the first time in the late 1960s. The conclusions of the 1970 Werner report on economic and monetary union suggested that management and labour should be consulted before Community policies were developed. In order to prevent excessive disparities, the development of incomes in the various member states should be discussed at the Community level, with the participation of the social partners⁴ (see Rifflet 1989: 13). The Commission's proposal to the Council on the establishment of economic and monetary union (COM[70] 1250) insisted on the importance of concertation of the economic policy orientations with the social partners (see Rifflet 1989: 14). When these early efforts towards monetary union failed, the calls for an increased social partnership nevertheless continued. In 1970, the *Standing Committee on Employment* was established by a Council decision. It consisted of the national Social and Labour Ministers, representatives of national employers' and employees' federations as well as representatives of Directorate General V of the EC Commission. It issued opinions and consulted the Commission on employment-related topics. But again, the process proved too cumbersome to be effective (for details see Gorges 1996: 120ff).

3 These statements are a requirement prior to the final decision by the relevant EC institutions (in the first place the Council), but they are in no way binding as to their content or direction (see Article 193 old, now Article 257, EC Treaty).

4 This term is here used as a synonym for 'labour and industry' and applied even for the period before collective bargaining took place at the European level.

At the EC Paris summit in 1972, the Heads of State and Government considered an EC social policy and the further *increased participation of the social partners* to be indispensable on the way towards economic and monetary union. In the 1974 social action programme (OJ 74/C 13/1), the Council mentioned as one of the central goals (in addition to full employment and the improvement of the living and working conditions) a *growing* participation of the social partners in the economic and social policy decisions of the Community.⁵ To realise this aim,⁶ the Council announced the reinforced involvement of the Standing Committee on Employment in all matters related to employment. It furthermore indicated its support of those employee representations that participate in the activity of the Community by establishing a European Trade Union Institute (ETUI) and training and information units for European matters. This was an important signal to the European Trade Union Confederation (ETUC) which had only been founded in 1973. The Council furthermore planned to facilitate, on the basis of the circumstances in the single member states, the conclusion of European collective pay agreements in appropriate areas. This pledge, as early as 1974, shows that invitations to the social partners to conclude Euro-level agreements actually have a long history.

In the aftermath of the 1974 social action programme, a tripartite discussion forum on social policy and employment issues was established, consisting of the EC Council and Commission, as well as of representatives of labour and industry. *Euro-level* representatives of labour and industry were for the first time invited to participate, next to national social partners. These *'Tripartite Conferences'* met six times up to 1978, debating issues such as full employment, inflation and fiscal policy. At that point, the ETUC *withdrew due to the reluctance of the employers' side to conclude agreements* (see e.g. Gorges 1996: 130). By then, the employers did not have to fear any negative consequences from this because the Euro-level organisation of trade unions was only in its beginnings and incapable of significant collective action. Furthermore, the Council's social policy impetus of the early 1970s had already stalled, and many important legislative projects stayed blocked. Obviously, manifold early efforts to bring about a more effective public-private interaction in EC social policy-making were a failure.

Comparatively successful, however, was the strategy to include social partner organisations on the *boards of various* agencies such as the European Foundation for the Improvement of Living and Working Conditions, and the Centre Européen de Forma-

5 In general, any measures proposed under the action programme (which the Council envisaged to be adopted under the EEC Treaty, explicitly including its Article 235; now Article 308, EC Treaty) should take into consideration the wishes of the social partners (see the general considerations).

6 It was seen in close connection with an increased participation of the employees in the activities of the enterprises and plants.

tion Professionnelle (CEDEFOP). Both were established under the 1974 social action programme and still provide expertise for the EC institutions within their functional fields. Many social partner and Commission experts acknowledge that co-operative experiences in such arenas actually increased confidence and allowed communicative patterns to build up between management and labour which facilitated the development of 'social dialogue' later on.

2.2 The Early Delors Era

A new phase of attempts towards co-operative governance (i.e., involving both public and private actors) began when *Jacques Delors* took office as the Commission President in January 1985. He had a well-known personal history of trade union leadership and held a strong conviction in favour of social dialogue (e.g. Roethig 1995: 278) – as did his major collaborators.⁷ Delors and his team launched the so-called '*social dialogue*' between the EC level top of labour and industry (ETUC, UNICE⁸ and CEEP⁹) at the Val Duchesse castle outside Brussels. The original Commission plan was to establish shared views which would subsequently be discussed with the two sides of industry in each member state, which should in turn lead to new topics being discussed at Community level, again with a view to reaching common views (see COM[89] 568 final). In fact, the results of the social dialogue were hoped to circumvent or break social policy stalemates in the Council which were a frequent phenomenon up to the Maastricht Treaty. For example, Commission Vice-president Manuel Marin's 'guidelines on the development of the Community's social policy' (*Europe*, Document no. 1498 of 19 March 1988) stated that activities in the framework of the social dialogue regarding flexibility and adaptability of work in the enterprises 'if they are reflected in positive conclusions – may allow a new approach as to the draft Directives still pending at Council level, such as the Directives on part-time work and on employment contracts of definite duration' (no. 18). Because the employers refused to enter any binding agreements, however, only a few non-binding joint opinions were published up to the early 1990s. *In the short run, the 'Val Duchesse social dialogue' thus proved a failure* when compared with Delors' ambitions.¹⁰

7 See Ross (1995a: 150): 'The Social Dialogue Ad hoc Group was a Delors' pet project ... [For] Jean Degimbe, DG V's Director General, social dialogue was the last passion of a long career ...' The former Head of the Directorate 'Social Dialogue' in the EC Commission, Carlo Savoini, is officially described as a 'dogged defender of the European ideal and of the social dialogue' (*Social Europe* 2/1995: 6).

8 The Union of Industrial and Employers' Confederations of Europe.

9 The European Centre of Enterprises with Public Participation.

10 From the broad array of literature which, in addition to outlining and evaluating the Maastricht changes, underline this, see e.g. (Dølvik 1997, Keller 1995, Leibfried and Pierson 1995, Platzer 1997, Rhodes 1992).

With the 'Europe 1992' project, Delors successfully launched market-making EEC reforms. Despite its strictly limited substantive social policy changes, the 1986 Single Act gave the Commission President *formal backing for the Val Duchesse social dialogue*: the possibility of Euro-level collective agreements was explicitly mentioned; and the Commission was solemnly given the task of endeavouring to develop the dialogue between management and labour at European level (see Article 118b EEC Treaty).

Parallel to the practical implementation of the Internal Market, the lack of a 'social dimension' was increasingly being politicised. Actors such as the EP, the ETUC, and the Commission argued that open economic borders create a need for EC action to prevent 'social dumping' (see Falkner 1993). In a 1988 discussion document on what was called the 'social dimension of the Internal Market', the Commission again urged for a reflection on Euro-level labour relations and on a deepening of the social dialogue (see e.g. *Social Europe* 1988/1: 74). Its hope was still that the social dialogue would prompt a consensus among the social partners which might lead to specific proposals for Community action (see Working Document on the social dimension of the Internal Market, SEC[88] 1148, no. 59). Social partner agreements were considered essential in order to give such proposals at least some chance of being adopted (*ibid.*: no. 64). In fact, the Commission was at the time faced with low ambitions in the Val Duchesse social dialogue. Nevertheless, it announced in public its intention 'to continue to play its stimulating role while fully respecting the social partners' own willingness, though not disregarding the Commission's obligations and its prerogatives under the Treaty or the Single Act' (see Commission Vice-President Manuel Marin's 'guidelines on the development of the Community's social policy'; *Europe*, Document no. 1498 of 19 March 1988, no. 23).

We see that, despite quite unfavourable starting conditions, the Delors Commission would strongly pursue its idea that the involvement of management and labour might help unblock the EC's social dimension. Social dialogue would constantly be marketed in official documents and brought up in meetings and conferences. It seems that a learning and maybe even a Euro-level identity formation process was being induced. There was much talk of backing the 'European social model' by a social dimension to the Internal Market, based on both joint social minimum standards and social dialogue between labour and industry.

By the late 1980s, in the Presidency conclusions, even *European Council* meetings would refer not only to social policy in general, but to the involvement of the social partners in particular. The Hannover Council of June 1988 invited the Commission to intensify its dialogue with the social partners, and the summit of Rhodos in December 1988 stated that progress in implementing the Single European Act should go along

with parallel progress in implementing the social policy provisions, notably Article 118b EEC Treaty on the social dialogue (see EC Bulletin 1988/12: 9ff). A significant symbolic step in the development of EC social policy was the so-called '*Social Charter*' which solemnly declared a series of basic rights of workers, related to free movement, working conditions, and social security. As far as implementation came under the framework of EC competences, it was perceived to 'need the active participation of the social partners in many areas' (Preamble). The Charter's title on the right to freedom of association and collective bargaining (points 14-16) mentioned that the dialogue between social partners at European level was to be strengthened. This could lead to contractual relations if the social partners so wished.¹¹

In its Communication concerning a *working programme* aimed at implementing the Charter (COM[89] 568 final), the Commission presented for the first time proposals on social partner involvement *similar to the 1992 Maastricht Treaty*. It wanted, together with the two sides of industry, to 'examine the extent to which and under what terms the former could agree to participate, in the framework of the social dialogue, in preparing certain legal instruments which the Commission would subsequently submit to the Community bodies concerned', and it proposed to consult systematically the two sides of industry on proposals to which reference was made in the action programme (ibid.: 29, emphasis added).

The employers had traditionally rejected both EC level social regulation and EC level negotiations with labour. It was thus no surprise that UNICE voiced concerns about the volume of initiatives proposed and the thrust of some of the proposals in the 1989 social action programme (see position paper of 22 March 1990). Nevertheless, the *Commission's tactic* to employ 'sticks' as well as 'carrots' (i.e. to envisage social regulation but provide for possible participation of the social partners in its elaboration; see Ross 1995b: 377) was *successful*: UNICE made it clear that despite its opposition to most EC level legislation, it wanted to have a say in the details of any measures discussed. 'UNICE requests that it should be properly consulted before the final detail of an initiative is decided by the Commission, as well as on formal proposals to Council. ... In some cases, it may be appropriate for the social partners to have an opportunity to *debate the issues involved in the social dialogue* at an early stage, prior to the Commission adopting a formal proposal. However, this should not replace or delay direct consultation of UNICE by the Commission.' (UNICE position paper of 22 March 1990; emphasis added).

11 The Commission had indeed suggested a more far-reaching provision (see COM[89] 248 final): 'relations based on agreement may be established between the two sides of industry at European level if they consider it desirable. The texts of the agreements thus concluded may cover employment and working conditions as well as related social entitlements. To this end, the dialogue between the two sides of industry at European level must be developed, in particular at inter-occupational and sectoral level.'

If UNICE warned at the same time that ‘too much regulation and central control will stifle initiative, demotivate the social partners’ (ibid.), the further developments with a view to the Maastricht Treaty showed the contrary. Euro-level interest politics developed alongside with the increased ‘state’ capacity of the EC in social policy. Only when there was a realistic threat that the 1989 social action programme’s proposed Directives would in the near future indeed be passed by the Council (this was clear by the time of the Intergovernmental Conference [IGC] 1990-91) did the step out of the ‘corporatist decision gap’ (Streeck 1995, translation GF) finally occur.

3. THE “SOCIAL AGREEMENT” IN THE 1992 MAASTRICHT TREATY

While the convention of an Intergovernmental Conference on economic and monetary union had already been decided in December 1989, the more controversial decision to convene a similar forum for constitutional EC reform with a view to various aspects of European *political* union (the UK and Portugal had initially been against) was only taken at the June 1990 European Council of Dublin. Although the prime objective of the Intergovernmental Conferences opened on 14 December 1990 in Rome was nevertheless economic and monetary union, negotiations on how to reach political union were held in parallel. The term ‘political union’ referred to a bundle of topics, stretching from procedural reform (mainly strengthening the EP’s legislative powers) to substantive policy innovation. Social policy was a major issue within the latter.

Due to the requirement of unanimous approval by all twelve member states, however, the social provisions could not be significantly altered in the presence of strong opposition from Great Britain under the Tory government. At the end of most difficult negotiations which had even threatened the rest of the Intergovernmental Conference’s compromises, the UK was granted an opt-out from the social policy measures agreed by the rest of the member states.

Because of the UK opt-out, the European Union possessed *two legal bases for the adoption of social policy measures* after the Maastricht Treaty came into force in 1 November 1993. (Note that a single legal basis for EC social policy was re-established by 1 May 1999, after the implementation of the 1997 Amsterdam Treaty which transferred the Social Agreement into the EC Treaty, without significant substantive changes.¹²) The

12 The Amsterdam Treaty also brought a renumbering of Treaty Articles. I will mention both the old and the new numbers, below.

EC Treaty's social provisions stayed valid for all EU member states. As introduced by the 1986 Single Act, it allowed for minimum harmonisation as well as for qualified majority voting in the area of worker health and safety provisions only. By contrast, the innovative social policy provisions of the Social Agreement – applicable only to the EC members except Great Britain – comprised what had been perceived during the Intergovernmental Conference as amendments to the social provisions of the EEC Treaty. They brought an *extension of the Community competence* in a wide range of social policy issues. These include working conditions, the information and consultation of workers, equality between men and women with regard to labour market opportunities and treatment at work (as opposed to only equal pay before), and the integration of persons excluded from the labour market (see Article 2, Social Agreement; now 137.1, EC Treaty). Some issues were, however, *explicitly excluded* from the scope of minimum harmonisation under the Maastricht social policy provisions: pay, the right of association, the right to strike and the right to impose lock-outs (Article 2.6, Social Agreement; now 137.6, EC Treaty).¹³

The probability of an active use of the new competences under the Social Agreement was crucially enhanced by the extension of *majority voting* to many more issues than before, including e.g. the information and consultation of workers. Unanimous decisions were restricted to social security and social protection of workers; protection of workers where their employment contract is terminated; representation and collective defence of the interests of workers and employers, including co-determination; conditions of employment for third-country nationals legally residing in Community territory; and financial contributions for the promotion of employment and job creation (see Article 2.3, Social Agreement; now 137.3, EC Treaty).

Therefore, the Social Agreement had 'the potential to be a watershed in the evolution of the EC's social policy role' (M. Hall 1994: 306). That the burden of *unanimous decision-making* in the Council was lifted for most aspects of EC social policy has certainly backed supranational dynamics at the expense of intergovernmentalism. It had in fact been the unanimity requirements in European social policy which 'made both encompassing organization and centralized negotiations with labor largely dispensable for European business, whose social policy interests ... tend[ed] to be realized, as it were, by default' (Streeck and Schmitter 1991: 207).

It might in the long run be as significant a procedural innovation as qualified majority voting that the Maastricht Social Agreement provided for *several layers of participation in the policy process by management and labour*:

13 These matters can nevertheless be the subject of an autonomous social partner agreement (see also Bercusson 1995: 178). From a legal viewpoint, they may even be the subject of EC law under different legal bases (e.g. Articles 100 or 235 old, now Articles 94 and 308, EC Treaty).

- The Commission has now a legal obligation to consult both sides of industry twice *before* submitting proposals in the social policy field – initially on the general principles and later on the details of a policy proposal (Article 3.2 and 3.3, Social Agreement; now 138.2 and 138.3, EC Treaty).
- Management and labour may, on the occasion of such consultation, inform the Commission of their wish to initiate negotiations in order to reach a *collective agreement* on the matter. This would bring conventional EC decision-making to a standstill for at least nine months (Article 3.4 Social Agreement; now 138.4, EC Treaty).¹⁴
- Indeed, such agreements can, at the joint request of their signatories, be incorporated in a ‘Council decision’ on a proposal from the Commission (Article 4.2 Social Agreement, now 139.2, EC Treaty).¹⁵
- The alternative to implementation of Euro-level collective agreements through EC law is an implementation through ‘the procedures and practices specific to management and labour and the Member States’ (Article 4.2 Social Agreement, now 139.2, EC Treaty).
- In any case, a member state may entrust management and labour, if they so jointly request, with the national implementation of EC Directives adopted under the Social Agreement (Article 2.4 Social Agreement; now 137.4, EC Treaty).¹⁶ This had already been practised before the Maastricht Treaty.

These are significant innovations because the social partners are now formal co-actors within the social policy process.¹⁷ Without their consultation, no action may be taken by the EC institutions. They may themselves implement European social policy. Furthermore, even when it comes to actually formulating specific social standards which subsequently become binding for all economic actors within the EU, the legislative institutions (i.e. mainly the EC Council, supported by the EP and acting on initiative of the Commission) have lost their monopoly. In fact, the ‘social partners’ may decide independently on matters which may later on be accepted as formal EC social law by the Council. During each and every phase of the policy process, the social partners may therefore be the decisive actors of EC social policy since the Maastricht Treaty came

14 The Commission and the social partners may jointly decide to extend this period (Article 3.4 Social Agreement, now Article 138.4, EC Treaty).

15 The Council acts by qualified majority, except where the agreement in question contains one or more provisions relating to one of the areas which needs unanimous decision-taking (Article 4.2 Social Agreement, now 139.2.2, EC Treaty).

16 In such cases, the member state must ‘ensure that, no later than the date on which a directive must be transposed..., management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that directive’ (Article 2.4.2 Social Agreement, now 137.4.2, EC Treaty).

17 Indeed, the post-Maastricht EC social policy procedures fit Schmitter’s classic formula for corporatist concertation, i.e. ‘a mode of policy formation in which formally designated interest associations are incorporated within the process of authoritative decision-making and implementation’ (Schmitter 1981: 295).

into force. Only if implementation is envisaged via binding EC law the Commission and the Council are co-players in the game because they are needed to endorse the social partners' will.

Since the Maastricht Treaty came into force, EC level collective agreements are in fact not simply one out of two routes towards common social norms. They indeed enjoy primacy on the path towards social legislation. There is now *double subsidiarity* (i.e. regional and functional¹⁸) in EC social policy (cf. COM[93] 600 final: pt. 6c): the general principle of subsidiarity applies to the social field, too, implying the Community shall take action only 'if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States ...' (Article 3b old, now Article 6, EC Treaty). Furthermore, if social policy activity is nevertheless deemed necessary at the European level, social partner agreements now have priority over legislation. Thus, the national level precedes the European one, plus the level of collective agreements is preferred to that of EC legislation. Traditional legislation is only envisaged any more if the social partners do not open collective negotiations, if the negotiations fail, or (implicitly) if an agreement's provisions are deemed insufficient by the Commission and the Council.

In short, the Maastricht innovations constituted a significant departure from the weak provisions for social partner involvement in EC policy-making during the pre-Maastricht era. This invites the question how it was at all possible to agree on these new patterns of EC social policy-making.

4. WHO PUSHED FOR CORPORATIST DECISION PATTERNS?

In the case of the procedural social policy reforms in the Maastricht negotiations (i.e. the formal establishment of corporatist decision patterns), the Commission did not only rely on submitting own proposals to the Intergovernmental Conference and on being a mediator between the governments in critical moments. In addition to all that, it managed to activate labour and industry with a view to reaching its goals.

Already before the formal opening of the Intergovernmental Conference in December 1990, some delegations and some EC institutions had presented their reform options to the public (see Laursen and Vanhoonacker 1992). Specific proposals relating to the public-private interplay in EC politics, however, were rather rare – notwithstanding the vivid interest in substantive social policy reform, in general. However, *the Commission, Belgium, and the EP actively pledged for more social partnership* at the EU level

18 Buda (1995:289) speaks of 'horizontal' subsidiarity with a view to the social partners.

during the early phase of the Intergovernmental Conference. Against this background, the Presidency conclusions to the European Council of Rome on 14 and 15 December 1990 (see Europe, 16 December 1990) asked the Intergovernmental Conference to bear in mind, 'inter alia, ... the social dimension, including the *need for social dialogue*; economic and social cohesion ...' (Article 4, emphasis added).

The *Belgian delegation* to the Intergovernmental Conference was pushing hardest for reforms in the involvement of the social partners. A quite far-reaching general social policy proposal of 23 October 1990 suggested that the Council should act by a qualified majority in order to contribute to the progressive harmonisation not only in the areas of social security and right of association but also of collective bargaining (Schulz 1996: 75). On 25 January 1991,¹⁹ the Belgian delegation presented a specific *proposal to enhance the role of the social partners* in the elaboration of EC social legislation. It argued that while the results of the social dialogue had so far been disappointing, some would argue that in specific cases traditional EC law might be too 'dirigiste'. Therefore, the social partners should have more than the consultative role which the ECOSOC already played. A *Labour Committee* should be established, composed of the same number of employers' and workers' representatives. It should be appointed by those two groups' representative organisations, in a manner that made representativeness incontestable. Among the tasks of the Labour Committee should be, first, the autonomous negotiation and signature of collective agreements.²⁰ Such agreements might be transmitted to the Commission for submission to the Council in order to be integrated in the body of Community law.²¹ Second, the Labour Committee should be involved in the development of EC social law. It should be consulted, like ECOSOC, on Commission proposals in the relevant area. If the Committee estimated that the question should be the object of a collective agreement, it should enter into negotiations.²² Subsequently, the Commission should submit to the Council a proposal on the formalisation of this agreement which should, in case of Council approval, become binding on the whole Community. In case the collective agreement covered only part of the initial Commission proposal, the Commission could equally propose a traditional legislative procedure in addition. The Commission might furthermore, when proposing any Directive, provide for a transposition via obligatory collective agreements at the national level instead of traditional

19 This proposal is not published but the author has a copy available (for a general outline of it see Europe, 7 February 1991, Vanhoonaeker 1992: 43).

20 French original: 'conventions collectives de travail' (point I.1.)

21 To back this idea, the Belgian government referred to existing national practices, notably in Belgium where the King can make obligatory the collective agreements concluded by the social partners in the national Labour Committee.

22 The Belgian proposal did thus already include the preference for action by the social partners over action by the Council which was finally introduced in the Social Agreement.

regulatory acts. A further power of the Labour Committee as proposed by Belgium was the right to ask the Commission, at any time, to submit to the Council a proposal within the realm of the Committee's competences (point I.2).

When the *Commission* presented a draft text for the reform of the social Chapter at the end of March 1991,²³ it looked quite similar to the Belgian proposal. The Commission took over the priority for action by the social partners over action by the Council (i.e. 'functional subsidiarity' as opposed to regional subsidiarity which was also to be included in the Maastricht Treaty). An 'institution for concertation' such as proposed by Belgium was, however, only included as one possible option. Before the Commission could present a proposal, it should consult an as yet specified forum (the text included: '...') on the question of whether the same goals could be attained by a framework agreement by the social partners such as mentioned in Article 118b of the EEC Treaty.²⁴ Only if such an agreement could not be concluded within a reasonable time, the Commission would propose legislation to be adopted by the Council and the EP, after consultation of ECOSOC.²⁵ Who exactly '...' should be was left open in this Commission proposal, subject to adaptation according to, first, the results of the social dialogue on this matter, and, second, the possible introduction of a new concertation institution (see also Notabene no. 63: 7; Schulz 1996: 81). The differences to the earlier Belgian proposal were thus that

- the form or body of social partner co-operation was left open, subject to results of the social dialogue;
- the Commission itself should trigger social partner negotiations if it considers that a 'framework agreement' is possible;
- if no agreement was reached within an adequate time (Commission scrutiny) traditional procedures come into play;
- the national social partners could be engaged to implement EC Directives, in the specific legal act itself;
- in cases where implementation did not rest with the member states, the Commission should be supported in the process of implementation by a concertation institution (which was still to be designed);

23 The Commission published this text to a restricted public in a large edition including all its proposals to the Intergovernmental Conference of spring 1991 (SEC[91] 500: see 77ff).

24 Note that the proposed Treaty innovations during the Maastricht IGC referred to the "old numbering" in force before the Amsterdam Treaty.

25 The Commission furthermore proposed to include into the social section the provision that EC regulation might charge the social partners in the member states to implement EC social regulation.

■ if the signatories so desired, agreements concluded under the autonomy of the social partners could either be made generally binding by a Council decision (by qualified majority, after Commission proposal and EP and ECOSOC opinion), or could be subject of a recommendation by the Commission (without further specification). There is no written proof that coalition building had indeed been going on prior to the Belgian proposal to the Intergovernmental Conference. Several interviewees have, however, pointed to the fact that there were excellent contacts between the relevant Commission units and the Belgian social ministry, and that there might have been a sort of 'conspiracy' among Brussels-based personalities interested in prompting Euro-level social partnership. It therefore seems to have been skilful tactics by the Commission to first let a government launch its masterplan. In any case, once spread, the idea of a formal participation of labour and industry in social policy decisions had a life of its own.

On 12 April 1991, the Luxembourg Presidency presented a first proposal for a draft treaty with a view to achieving political union (published in Europe, Documents no. 1709/1710, 3 May 1991). The proposals on the participation of societal interests were less far-reaching than the Commission's and hardly went beyond the existing Article 118b EEC Treaty.²⁶ The official draft treaty on the Union presented by Luxembourg on 18 June 1991 (published as Europe Document no. 1722-3, 5 July 1991), by contrast, represented a synthesis of the work carried out by the two IGCs (on Economic and Monetary Union and political union) until then. This document contained corporatist patterns already close to the Maastricht Social Agreement's.²⁷

Meanwhile, another Commission initiative with a view to establishing social partnership flourished. Following an initiative by the European Commission in February 1991 (Cassina 1992: 13),²⁸ the three top interest associations *ETUC*, *UNICE*, and *CEEP* had sat down with the Commission (Schulz 1996: 86) to formulate their own proposals to the

26 'The Commission shall have the task of promoting consultations between Community organizations representing workers and employers. The consultations mentioned in the first paragraph may lead to collective agreements involving the whole of the Community and covering in particular the provisions for the implementation of the directives adopted pursuant to Article 118a. Collective agreements shall be implemented in accordance with each Member State's own national procedures. (proposed Article 118b).'

27 Article 117: 'The Community and its Member States shall have as their objectives ... the promotion of dialogue between management and labour ...'. Article 118.4: 'A Member State may entrust management and labour with the implementation of all or part of the measures which it has laid down in order to implement the directives adopted (under the social provisions)'. Article 118a: 'Before submitting proposals in the social policy field, the Commission shall consult management and labour on the advisability of Community action.' Article 118b: 'Should management and labour so desire, the dialogue between them at Community level may lead to relations based on agreement including agreements which shall be implemented in accordance with the procedures and practices peculiar to each Member State. In the field referred to in Article 118, where management and labour so desire, the Commission may submit proposals to translate the agreement referred to in paragraph 1 into Community legislation. The Council shall act as laid down in Article 118.'

28 This is even confirmed in the social partner's proposals on the implementation of the Social Agreement (29 October 1993; published in Social Europe 3/1994: 282).

Intergovernmental Conference. In a letter to the President of the Council dated 28 June 1991, they gave notice 'of the progress of the social dialogue ad hoc working group on the role of the social partners and of [their] willingness to make a timely contribution to the work of the Intergovernmental Conference' (*Social Europe* 2/1995: 138). At their meeting of 31 October 1991, the ETUC, UNICE, and CEEP reached an *Agreement* on how to strengthen the role of the social partners in the new Treaty. They drafted proposals for the wording of Articles 118.4, 118a and 118b of the draft treaty under discussion (while not examining other areas of the treaty reform; see document published in *Social Europe* 2/1995: 138f). Compared to the Luxembourg text of June 1991, the social partner text showed the following changes and innovations:

- the Commission should facilitate the dialogue between the social partners 'by ensuring balanced support for the parties' (Article 118a.1);
- a system of double consultation, initially on the possible guidelines of Community action and subsequently on the content of the envisaged proposal, was suggested; the social partners should transmit to the Commission an opinion or 'a recommendation' (no further specification);
- in case that the social partners negotiate an agreement instead of legislation, the duration should not exceed nine months, unless the negotiating parties agree on an extension;
- in those cases where the social partners ask for implementation of their agreement by the Council, this should happen via 'a *decision* of the Council on a proposal from the Commission, with regard to the agreements as *they have been concluded*' (emphasis added);²⁹
- while both the Commission proposal and the second Luxembourg draft had explicitly or implicitly provided for a consultation of the EP and the ECOSOC before implementation by the Council of a collective agreement, the social partners suggested a Council decision after involvement of the Commission only;
- a new sub-paragraph to Article 118 suggested that even in cases of implementation by management and labour, a member state concerned 'shall take such action as is needed to enable it all times to secure the results to be achieved by virtue of the directive';
- with a view to the implementation of measures by the national social partners, it was suggested that a member state may entrust management and labour 'at their

29 It is interesting to note that the Commission later pushed through this aspect in day-to-day social policy making, although it was not adopted by the Intergovernmental Conference. In doing so, the Commission followed the wish of UNICE, CEEP and ETUC as expressed in their proposal on the implementation of the Social Agreement (29 October 1993; published in *Social Europe* 3/1994: 282).

joint request' 'with the implementation of the directives ...' (Luxembourg draft: 'the implementation of all or part of the measures');

The social partner proposals were accepted by the Dutch Presidency almost without changes. On 8 November 1991, a new draft Union Treaty was presented to the Inter-governmental Conference which revised the earlier Luxembourg draft in terms of the majority view to emerge during the work of the prior few weeks (see *Europe*, Document no. 1746/1747 of 20 November 1991). In the field of social partner involvement in EC social affairs, this second Dutch draft indeed already represents almost exactly the wording of the Social Agreement. The essence of the Luxembourg text of June was taken up but extended according to the social partner proposals.³⁰ This text was finally adopted at Maastricht, without substantial changes,³¹ by the eleven governments which finally subscribed to the Social Agreement.

Interviews with UNICE, CEEP and ETUC officials at the time revealed that even the social partners themselves were surprised that their 1991 Agreement went straight into the Treaty without major changes. They assumed that the governments felt obliged to bring the EC somewhat closer to society, and that the governments might not have expected collective agreements to actually happen. Commission sources agreed that the manifold references to social dialogue and the social partners in the years prior to the Maastricht Treaty were a relevant background to the 'accident' which happened at Maastricht: what first seemed to be 'cheap talk' about a European social model based, *inter alia*, on close co-operation between the major interest groups and the state, seems to have prompted a relevant Treaty reform, after all.

To date, the provisions of the Maastricht Treaty's Social Protocol formed the basis for three cross-sectoral collective agreements on labour law issues (parental leave, part-time work, fixed-term work). At Amsterdam, they were incorporated in the EC Treaty and are now binding for all Member States.³²

30 Slightly reformulated was the provision that member states are required 'to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by the Directive' in case of implementation by the social partners (proposed Article 118.3, sentence 2). Some changes strengthened the Community institutions vis-à-vis the social partners, however.

31 Added were only the words 'on the content' to the provisions of the second round of consultations, as earlier in the social partner proposal.

32 After the renumbering exercise the Article numbers of the 'Social Provisions' are from 136 (formerly: 117) to 145 (formerly 122), EC Treaty.

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THE NEW EUROPEAN EMPLOYMENT POLICY OR: IS THE GLASS HALF-FULL OR HALF-EMPTY?

1. INTRODUCTION

The revised Treaty on European Union, the Amsterdam Treaty signed in 1997, includes two innovations being of potential major relevance for the further development of European social policy: Firstly, the Social Protocol that had only been annexed to the Maastricht Treaty was included into the Treaty without any substantial changes (Articles 136-139). The *opt-out* of the UK, and the imminent danger of a so-called “variable geometry” came to a definite end after the Conservative government had lost power and the new Labour government had decided to follow a different strategy of integration. A more homogeneous approach towards social policy is supposed to become possible.

Secondly, a new chapter on employment (Articles 125-130) was finally concluded despite long-lasting resistance by individual Member States. Unemployment had risen to unexpected heights in almost all Member States in the early 1990s (to an average of 10 to 11 per cent, including a high number of long-term unemployed). Therefore, the growing majority of European and national players felt that a new, more integrated strategy of collective action was badly needed. They finally agreed that “Member States and the Community shall ... work towards developing a co-ordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change” (Article 125).

The potentials and empirical results of the Social Protocol have been extensively dealt with in the more recent literature (Falkner 1998, Keller/Sörries 1999a and b, among others). However, public interest in the options and restrictions of major players created by the new employment strategy has so far been rather limited. Therefore, we will focus our following analysis on this new policy field. We will not repeat its well-known history, but describe shortly the procedural structuring of the Luxembourg process (part 2), analyse its major constraints and opportunities (part 3), elaborate on different problems of implementation (part 4), introduce the most recently developed procedures of macroeconomic co-ordination (part 5) and present a short outlook on

future prospects (part 6). So-called national employment pacts to be observed in different EU member states are beyond the scope of this article.

2. PROCEDURAL STRUCTURING

The “Extraordinary European Council Meeting on Employment” in November 1997 started from the general outlines in the Amsterdam Treaty and established an elaborated set of procedural rules, the so-called *Luxembourg process*. It created a common new structure, in order to improve the newly introduced European co-ordination of national labour market and employment policies.

The sequence of steps to be taken on an annual base is as follows:

- After having consulted other different players (like the European Parliament, the Economic and Social Committee, and the Council of Regions) the Council of Ministers draws up so-called *employment guidelines* which have been proposed by the European Commission. All Member States shall take these union-wide guidelines, which have to be “consistent with the broad guidelines of the economic policies of the Member States and of the Community” (Article 99), ... “into account in their employment policies”.
- Member States “shall regard promoting employment as a matter of common concern” and implement these guidelines by means of so-called *national action plans* (NAPs). They are free to choose means and instruments they consider to be the most appropriate. However, Member States have to report annually to the Council and the Commission “on the principal measures taken to implement its employment policy in the light of the guidelines for employment” (principle of multilateral surveillance).
- The ongoing processes of “implementation of employment policies of the Member States in the light of the guidelines” are examined by the Council and the Commission as far as the results, and not however the choices of instruments and measures, are concerned. The result of this evaluation procedure are annual *joint employment reports* to the relevant European Council meeting. In accordance with recommendations by the Commission the Council can, acting by a qualified majority, “make recommendations to Member States” if it considers this step to be appropriate. Furthermore, the Council may adopt “incentive measures designed to encourage cooperation between Member States and to support their action in the field of employment through initiatives”.

- Furthermore, a so-called *Employment Committee* “with advisory status to promote co-ordination between Member States on employment and labour market policies” shall be established. It replaces the formerly existing Employment and Labour Market Committee. Its functions will be ex ante co-ordination and co-operation with social partners.
- Last, but not least: National and European *social partners* from different levels are supposed to play a major, more active role and to participate in all phases of this policy process from agenda setting to policy formulation to the evaluation of results. Broadened and enlarged social dialogues at the inter-professional as well as sectoral levels are considered to constitute the appropriate means for strengthening the already existing dialogue structures as well as the new employment policies. They are to be focused on employment issues instead of dealing with a complex set of rather heterogeneous subjects.
- There are currently over 20 guidelines which are supposed to be valid for a five year period (1997-2002) without substantial changes in between. They can be summarised under the heading of four so-called *pillars* (COM (1997) 497 final):
- improving employability (tackling youth unemployment, preventing long-term unemployment, transition from passive to active measures),
- developing entrepreneurship (making it easier to start up and run businesses, making the taxation system more employment friendly),
- encouraging adaptability in businesses and their employees (modernising work organisation, support adaptability),
- strengthening equal opportunities policy (tackling gender gaps, reconciling work and family life, facilitating the return to work).

Furthermore, the European employment rate that is (at about 60 per cent) rather low in comparison to the US and Japan (at more than 70 per cent) is, for demographic, social and economic reasons, supposed to be increased to a considerable degree.

3. CONSTRAINTS AND OPPORTUNITIES

What are the preliminary results of this emerging policy field after the completion of the first rounds of NAPs? For the time being, this question of crucial importance is difficult to answer because our empirical experience is still rather limited. Furthermore, focal players (like European institutions, Member States and social partners) have the capacity to learn and adapt their corporate behaviour to changing economic circumstances and political preferences.

1. First of all, *financial limitations* within this new policy field are quite obvious: The political agreement on the introduction of the employment chapter was reached only under the explicit condition that additional financial resources would not be needed and not be granted. This restriction creates a more or less clear contrast to the intentions of the White Book "*Growth, competitiveness, employment – the challenges and ways forward into the 21st century*" of 1993 that did not, or at least not completely exclude additional expenditures for different trans-European networks (energy, telecommunication, transport, among others). A major enlargement of the presently fairly small EU budget (of not more than 1.27 per cent of the GDP of the EU) is unlikely to happen because all Member States, especially those who pay more than they receive (Germany, the Netherlands, among others) prefer strictly to contribute less.

Furthermore, major re-allocations of resources within the existing boundaries of the EU budget is rather unlikely because major parts have been allocated and committed to more or less exactly defined and compulsory expenditures (first of all agriculture as well as structural and cohesion policies). Thus, all kinds of re-allocation would constitute zero sum games without leading to "social distribution". The only minor exception from these general restrictions will be an action plan (of about 10 billion euro) financed by the European Investment Bank. If structural funds will be able to contribute more actively to newly established employment goals remains to be seen.

The same line of argument holds at *national level* where different public budgets (not only in Belgium and Italy but) of all Member States are under heavy strain of "ambitious consolidation efforts". The fulfilment of the convergence criteria of the European Monetary Union in general and its strict fiscal criteria (concerning the maximum amount of long-term as well as short-term deficits) in particular constitute difficult, not to say precarious tasks. Furthermore, major re-allocations of public funds will be difficult to achieve because of diverging, if not strictly opposing interests of different national actors including, first of all, the social partners. Furthermore, the Stability and Growth Pact signed to secure the sustainability of the EMU even intends to bring all public budgets close to balance or even to a surplus over the medium term.

Thus, additional expenditures for active labour market policies are prevented at the supranational as well as the national level. The inclusion of the employment chapter into the revised Treaty was only possible under the more or less explicit agreement that further expenditure would not be necessary. Last but not least: In any case, in the next decade more and additional resources will definitely be needed for the

social support of the forthcoming, necessary so-called eastern enlargement (including, among others, Czech Republic, Hungary, Poland).

2. All in all, it seems to be justified to conclude that employment problems have reached a somewhat higher priority on the European agenda for public policy. This change has been caused by the official introduction of the employment chapter and the procedural structuring of the so-called Luxembourg process consisting of definitions of targets, timing of procedures and monitoring or multilateral surveillance of results. However, the degree of integration is still fairly low and the shift of power remains limited: "The Community shall *contribute* to a high level of employment by *encouraging* cooperation between Member States and by supporting and, if necessary, *complementing* their action" (Article 127). Thus, we should explicitly differentiate between a genuine "European" strategy that has definitely not been established and a "co-ordinated strategy for national employment policies" that has come into existence. Both options will constitute, however, rather different paths of European regulation and integration and lead to different results.

A balance or equilibrium between the progressing economic and the still lagging social integration has not been reached – and will most likely not be achieved in the foreseeable future either. On the one hand, with the third stage of Economic and Monetary Union and the introduction of the common currency at the beginning of 1999, economic integration reached its highest level so far. On the other hand, social integration is, despite some progress throughout the 1990s (like the introduction of the Directive on "Establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees" in 1994), still lagging behind. There is absolutely no equivalent to the quantified, strictly defined and, if necessary, enforced criteria for "economic convergence" within the "social dimension of the internal market". Comparable, quantified and verifiable indicators for a process of "social convergence" do not exist.

The impact to be exerted by the European Commission has increased to a certain degree because of the new, but "soft" opportunities to formulate guidelines for the development of co-ordinated employment policies, to issue non-binding recommendations for individual Member States and to act as an integrated part of the annual review process of multilateral surveillance. However, "hard" competencies were not included into the employment chapter – and will not be provided in the foreseeable future. Thus, the extent of change in the division of labour between national and supranational actors is limited. This failure to include the option of binding sanctions against non-cooperating Member States, like in the case of viola-

tion of the entrance criteria into the European Monetary Union and the Stability and Growth Pact resp., constitutes one of the major differences between both policy fields.

Therefore, the Commission depends on the purely voluntary cooperation of sovereign Member States that cannot, however, be taken for granted from scratch. If they in all cases comply with possible country-specific, but non-binding recommendations on the implementation of their employment policies, or only try to prevent, or at least change or modify them in advance, remains to be seen. Attempts of different national governments to avoid such interference by means of bargaining during the final rounds of consultation in the social affairs council did take place during the first annual rounds and are rather likely to continue. The overall experience after the first full cycles of monitoring is rather mixed and ambivalent: "... the Commission somewhat controversially issued individual recommendations to member states advising them on how they could better implement their individual employment policies. Although this process is provided for by the employment strategy and, in any case, the recommendations are not binding, many member states expressed the view that this was a little heavy-handed as, according to the spirit of the employment strategy, the issuing of recommendations should be a last resort rather than a first option. However, the Commission ... maintained that the process should be given some teeth in order for things to move forward." (EIRR 2000, 36).

Thus, the amount of potential political pressure to be created at the national level by public opinion and/or voluntary associations will remain weak despite the fact that the first summary of NAPs by the Commission "did not choose to diplomatic a path in emphasising the weaknesses of certain documents" (Pochet 1999, 275). Thus, the governments of individual Member States will neither face high levels of justification nor pressure of legitimisation for their policies. At least in some major countries (like in Germany) the majority of economists argues strictly against the strategy proposed within the Luxembourg process. These statements can be instrumentalised by governments to cope with countervailing demands. All in all, the impact of this "peer review process" seems to be exaggerated in the most recent, "Euro-optimist" literature as well as statements by official representatives of the Commission (Larsen 1998).

National perceptions of these processes can be and are indeed very different. "For instance in Germany, it was stated that the Luxembourg summit did not alter the main fact that employment policies are part of the member States competence; in Spain, the target adopted for the unemployed in training schemes was considered inadequate and in Britain, the summit drew rather little interest altogether. Only in

France and Italy did Governments present the summit's conclusions as a breakthrough towards devising innovative European policies" (Barbier 1998, 463).

3. The Commission remains strictly limited to "soft" and non-binding instruments like the improvement of information of individual Member States, proliferation of so-called national best practices, definition and introduction of benchmarking criteria, and transnational evaluation of means and instruments according to commonly agreed statistical criteria and operationalized indicators (Tronti 1999). Furthermore, all these instruments and measures which have proved their effectiveness at national level, would be difficult to transfer from one Member State to others because of the existence of major institutional and legal differences in labour markets and employment policies. The frequently expected capacity to learn from each other, or to benefit from so-called "best practices" in other countries by imitation, is rather limited because of these restricting preconditions. Valid output indicators for different kinds of comparative purposes (like benchmarking) still have to be developed.

This present situation reflects the fact that Member States were, in contrast to their original official announcements, not willing to give up further parts of their sovereignty and national resources still existing in the vast majority of social policy issues. Member States decided to stick to the *principle of subsidiarity* that was revitalised in the early 1990s and renewed in the Treaty on European Union ("Maastricht Treaty"). Since then it has been highly disputed in its social policy implications of the post-Maastricht era (van Keersbergen/Verbeek 1994, Lyon-Caen 1996). It stresses the prime importance and responsibility of lower (national, regional, and local) levels and their different actors in all policy fields – and may lead to delays of action and even non-action instead of more integration. Therefore, the Commission is not to blame for the present, somewhat imbalanced state of employment affairs that can be traced back to, and is in line with the procedure of the Essen summit following the so-called action programme of the White Book of 1993.

The well known, strictly intergovernmental orientation did not cease to exist and, like in other policy fields, the launched process of integration was stopped half-way through. One empirical indicator for the continued existence of this *neo-voluntaristic type of policy* is the fact that quantified goals, that could more easily be monitored and verified under the common procedure of mutual surveillance, with very few exceptions (youth unemployment, long-term unemployment), hardly exist. Different national governments had strictly opposed the introduction of further quantified goals whereas the Commission had been in favour of such measures. The official recommendation is to set "supplementary verifiable quantitative objectives on

a national level" (Resolution of the European Council) in the NAPs. However, this step would have been possible without the European Employment Pact and cannot be regarded as a sustainable substitute for non-action at the upper level.

For these different reasons employment policies will not belong to the very few, highly integrated segments of European social policy, like health and safety and equal opportunity policies. A convergence or even strict "harmonisation" of national labour market and employment policies is definitely not in the making – and was obviously not even intended by the majority of proponents of the employment chapter. Quite the contrary: "Harmonisation" was explicitly excluded, and only incentive measures were agreed on.

4. Furthermore, formal institutions and informal rules, expenditures for active and passive policies, results and performances of national labour market regimes (youth unemployment, long-term unemployment, regional structures of unemployment, among others) differ to a great degree between Member States. The so-called interpenetration rate of EU labour markets is (at 2 to 3 per cent) still rather low. It has, despite the existence and gradual implementation of the principle of free movement, one of the basic four freedoms, hardly increased over the last decades; "European" or, to be more precise, transnationally integrated labour markets bar a few, minor exceptions (like in the construction industry), do not exist (Adnett 1996).

Therefore, all strategies to improve the overall poor present performances have to be based at the national level. All kinds of uniform, or homogeneous European measures, are not likely to succeed – and would not even make much sense. Therefore, the "management by objectives" introduced by the rather "flexible" Luxembourg process seems to be the appropriate strategy because it leaves a lot of strategic options and leeway at the national, regional and local levels. However, it remains incomplete.

To be more precise: A higher degree of uniformity and/or homogeneity would be necessary only in terms of binding, more quantified targets (like a decrease of X per cent of long-term unemployment within a certain period of time), but should not be taken in terms of national measures and implementation procedures which need a high degree of regional and local variability because of lasting national heterogeneity. However, the vast majority of Member States have been, for rather obvious reasons, reluctant to accept and establish such strictly self-binding, self-enforcing strategies which the Commission favoured for reasons of self-interest from the very beginning without, however, being able to include them into the employment chapter.

4. PROBLEMS OF IMPLEMENTATION

Protracted problems of implementation and application at national, regional and local levels exist for different kinds of European regulation (Majone 1996). Within social policy issues, this general handicap refers also to Directives and related measures of a more or less binding character because the Commission has no institutions and/or instruments of its own. Thus, it depends on voluntary co-operation of the Member States in this crucial phase of the policy cycle. European Works Councils as well as framework agreements according to the Social Protocol, among others, provide ample, and very recent evidence for this evident implementation trap. Necessarily, all European regulations have to be a rather general character because they must fit completely different national patterns. This structure opens plenty of opportunities for strategic manoeuvres at lower levels where specification and adaptation of European regulation must take place. These informal options of various national players are difficult to predict, and almost impossible to control and prevent.

1. In our case the above mentioned *NAPs* create different difficulties: They are, almost by definition, political compromises of rather heterogeneous or even opposing interests (of social partners and politicians, among others) at national level, not in all cases very well integrated in all their numerous details and in some parts of differing degrees of abstraction. First of all, they can intend, or at least implicitly result in, a mere continuation of already existing policies simply under the new headings of guidelines and *NAPs* instead of introducing new, more efficient and strictly targeted strategies. Furthermore, the annual national reports on "implementation of employment policy ... in the light of guidelines" will be biased because they will avoid to mention risks and failures and stress positive results. Furthermore, the number of quantified and, therefore, detailed targets (like the percentage of long-term unemployed to be included into measures of active labour market policies) is very limited – and will hardly grow in the foreseeable future. Targets themselves (like employability as one of the focal pillars) can have completely different meanings and policy implications in different member states.

All in all, external observers are, in contrast to official statements by the Commission, quite sceptical: "... most *NAPs* consist of a mere list of initiatives which often are just what countries were carrying out already and lack an integrated approach; – the *NAPs* do not provide sufficient evaluation about the resource and budget implications, and the employment effect of the measures proposed and taken; ... the majority of *NAPs* fail to define precise objectives of a quantitative nature, the con-

crete resources affected to the measures, the timetable for implementation and the statistical tool which will enable to evaluate the outcome" (Goetschy 1998, 18).

Furthermore, the implementation of the above mentioned, different pillars and/or individual guidelines can take place at an unequal level. Thus, the above mentioned strategy of "management by objectives" can lead to discretionary options and, thus, to serious problems because of differing interests in different guidelines or pillars. Major parts of the pillar on "equal opportunities for men and women in finding gainful employment", which is completely in line with different Directives and official EU-documents on "gender mainstreaming", could easily become one of the losers. Gender differentials, including not only occupational segregation and waged disparities, but also the so-called gender gap in unemployment and employment ratios will most likely continue to exist. "While there can be no doubt that these plans have resulted in genuine advances between 1998 and 1999, ... much work remains to be done if equality is not to remain a mere principle but is to be reflected in the practices of all the social players." (Lemière/Silvera 1999, 519).

On the other hand, social partners could be more interested in implementing different measures on training, work organisation, lifelong learning or even work organisation within the framework of modernisation of labour relations. Thus, they could contribute, probably even by collective bargaining strategies, to the implementation of the "adaptability" pillar. Budget implications of proposed measures can also remain unmentioned or at least unsolved, and such problems can be postponed from the phase of policy formulation to implementation.

2. Last but not least, it is difficult to see how and why the above mentioned *social dialogues* should succeed in contributing and being efficient instruments for the intended European co-ordination of national employment policies. UNICE, the major player on the employers' side "expressed its concern about a possible breach of the principle of subsidiarity and argued that the majority of social and labour market policy issues should be addressed by governments and social partners at the national level" (Eironline 1998, 2). After the opposite political decision had been made UNICE started to influence the formulation and implementation of guidelines, pillars and NAPs in order to further its own interests (UNICE 1999). On the other hand, from the very first beginning ETUC had been in favour of an employment chapter with far-reaching consequences and demanded its inclusion in the revised Treaty. Thus, the fundamental differences between the European peak associations of social partners reflect the well-known, insurmountable positions at national level on "flexibility" and "deregulation" of labour markets.

More recent experience shows that the applications of the enlarged and improved provisions of the Social Protocol have been limited to very few cases at the inter-professional level: So far, the social partners concluded only three voluntary framework agreements (parental leave in 1995, part-time work in 1997, limited contracts in 1999) and failed in focal areas (Keller/Sörries 1999a). Furthermore, the sectoral level, that would have to be of crucial importance for the implementation of different parts of European employment strategies, has been completely neglected. At least so far, it has played no role within the new provisions, i.e. voluntary framework agreements do not exist (Keller/Sörries 1999b). – Future consequences of the most recent major restructuring processes after the Commission decision “on the establishment of Sectoral Dialogue Committees promoting the Dialogue between the social partners at European level” are difficult to predict but will take much time anyhow.

Social dialogues within the context of the employment chapter will most likely mean something else and be of a completely different nature. They will, in obvious contrast to the binding character of their counterparts according to the Social Protocol, be of a purely voluntary and non-binding nature. Thus, they will reflect the structural preconditions of the pre-Maastricht era when only common statements and shared opinions without consequences for the signatory parties were issued. Furthermore, enormous differences in active participation by social partners at the national level are also rather obvious. The degrees of their integration at national, regional and local level will differ significantly according to legal and institutional structures, established “customs and practices” and to different phases of the policy cycle (Foden 1999). Participation could remain procedural especially in areas of disagreement. A certain path-dependency between national and supra-national integration and participation is rather likely to be established.

5. BEYOND THE EMPLOYMENT CHAPTER: MACROECONOMIC CO-ORDINATION

After the introduction of the employment chapter into the Amsterdam Treaty some major players (Commission and trade unions, among others) kept arguing that stricter, European wide processes of co-ordination would be necessary. Relevant policy fields remained excluded from a European-wide co-ordination of labour market and employment policies. “Employment policy remains quite separate from monetary union. However, in order to conduct effective employment policies ... a certain consistency

between monetary, economic and employment policies must be established... it is doubtful that the model chosen at Amsterdam was the best choice." (Goetschy/Pochet 1997, 618)

A balanced and efficient *policy mix* between general economic policy and different employment policy related measures was impossible to achieve because different, autonomous actors at European and national level were in charge of various complex policy fields (collective bargaining, monetary, budget and fiscal policy, among others). Their differing strategies needed to be informally co-ordinated.

In mid 1999, during the European Summit at Cologne the heads of state and government finally agreed on a comprehensive *European Employment Pact*. "The European Council takes the view that, to make a lasting success of economic and monetary union, there will need to be enhanced and appropriate policy co-ordination as well as dialogue with both sides of industry and with the European Central Bank" (Presidency Conclusions). A macro-economic dialogue between different corporate actors (Commission, Council, European Central Bank, social partners, Labour and Social Affairs Council, Ministers of Economic and Fiscal Policies (ECOFIN), among others) was institutionalised "in order to promote strong non-inflationary and job-creating growth". The informal "co-ordination of economic policy and mutually supportive interaction between wage developments and monetary, budget and fiscal policy through macro-economic dialogue aimed at preserving a non-inflationary growth dynamic" is the rather ambitious goal of the new institution also called the *Cologne process*. It is supposed to be the third element or pillar added to the co-ordinated employment strategy of the Luxembourg process and the structural reforms of the so-called Cardiff process aiming at structural reforms of markets in goods, services and capital.

Forthcoming difficulties and inefficiencies of this "closer cooperation to boost employment and economic reforms in Europe" will be caused by the fact that supranational, national and actor-specific interests are characterised by almost insurmountable differences:

- The *European Central Bank* could be afraid of more or less severe restrictions in its complete sovereignty explicitly guaranteed in the Treaty on European Union. To build a reputation of confidence and credibility is regarded as one of the most important priorities for this rather new institution. Within a possible conflict of goals and contradicting expectations of various players it will, like different national central banks before 1999, most likely focus its monetary strategies and targets on the strict preservation of price stability (Article 105) instead of contributing to job creation and a higher level of employment. Internal dissenting votes about the necessity of an increase of interest rates to avoid the danger of inflation might occasion-

ally happen, like in late 1999 as well as early 2000, but will not be able to constitute a majority.

- *Social partners*, especially unions, could be afraid of more or less severe restrictions of their autonomy in general and their collective bargaining policies in particular. Thus, in their joint “Declaration to the Cologne European Council” the social partners “stress that the autonomy of each of the parties concerned must be respected, and that the objective should be to exchange information – not to enter into binding commitments.” Furthermore, they disagree on concrete measures of job creation, namely “stimulating domestic demand and economic government on the one hand; follow a policy of supply and subsidiarity on the other” (Pochet/Arcq, 1998).
- The introduction of the common currency in 1999 has increased the pressure for “wage moderation” because the former instrument of devaluation of national currencies is no longer available, and transnational mobility of labour within the EU, one of potentially equalising factors, will (at about 2 per cent) remain low. Therefore, collective bargaining in general and wage policies in particular will serve as some kind of “shock absorber”. A European-wide co-ordination of policies, especially wage policies, based at the national level only does not exist – and will, because of strictly opposing interests between both sides of industry, be difficult to achieve. First attempts of a “flexible co-ordination of national collective bargaining” initiated in the metalworking industry in the late 1990s (Schulten/Bispinck 1999) should not be overestimated. The more far-reaching idea of genuine “European” collective bargaining instead of first attempts of transnational co-ordination does not provide a realistic perspective at all because major national differences in institutional design (degree of centralisation vs decentralisation, among others), legal preconditions (like free collective bargaining) as well as productivity and overall labour costs do not cease to exist.
- *Member States* differ greatly in their strategies of fiscal as well as employment policies. As already mentioned above, the strict convergence criteria of the Monetary Union prevent any expansion of national budgets. Even the partial integration of autonomous national tax systems is difficult, not to say impossible to achieve.

The fundamental problem of this “economic policy triad” consists in the simultaneous maintenance of independence and autonomy by all decision-making institutions and securing of voluntary co-ordination by all major players. Horizontal as well as vertical co-ordination between national and supranational players with differing interests constitute necessary prerequisites for the success of macro-economic co-ordination and institution building. The danger of compromises at the level of the smallest common

denominator is eminent. How exactly this “strength of weak ties” is supposed to succeed remains to be seen.

6. OUTLOOK

So far, first *results* in terms of content of the new strategy of the employment chapter have not been overtly convincing; “a lot of procedural innovation with a rather weak content” (Pochet 1999, 277) is an appropriate characterisation. However, the introduction of more far-reaching *processes* cannot definitely be excluded for the future. The long-term consequences of this careful change of the division of labour between national and supranational actors are still difficult to predict. For the time being, it has been a half-hearted step of more or less symbolic politics. However, this has frequently been the case during the launching of new policy fields and has not necessarily prevented the gradual increase of “European” competencies. The establishment of procedures, rules, patterns of centralised co-ordination and processes of monitoring and mutual surveillance will need much time to take effect, i.e. before measurable results can be observed – and may even lead to no significant results whatsoever.

It might well be that the employment chapter will lead to, or at least contribute to a *new pattern of European regulation*. The very ambitious, but unrealistic strategy of the 70s and early 80s had consisted in the establishment of rather high standards to be reached and adapted by all Member States (like participation rights according to the German model of co-determination). Since the mid/late 1980s this strategy of strict “harmonisation” was followed by the more realistic concept of setting only binding minimal standards that must be reached in any case, but can voluntarily be surpassed at lower levels (like in the case of European Works Councils). Member States had to implement these “soft” European regulations but were free to choose their own appropriate means and instruments. The new concept emerging with the employment chapter seems to consist of purely transnational co-ordination of national measures instead of setting limits by supranational prescriptions. This kind of regulation is even less binding than its predecessor. In other words: Under the heading of subsidiarity the shift from substantial to procedural regulation has been completed.

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WAGE DETERMINATION IN EMU

1. INTRODUCTION.

In this short essay, I examine how wage-setting will need to work under EMU (European Monetary Union) if it is to make the most effective possible contribution to long-run growth and full employment. I shall argue, first, that there is a macro, pan-European, requirement which the aggregate of nominal wage evolutions of the different member states needs to satisfy. This aggregate nominal wage development corresponds to the need to ensure that price inflation in EMU does not breach the upper limit of the European Central Bank's (ECB) target range. There is also, second, an individual member state wage requirement. This is, in the absence of the possibility of nominal exchange rate changes in EMU, to use changes in relative unit labour costs between EMU member states to bring about changes in real exchange rates. And third, there is probably a greater need for a degree of individual wage flexibility at company and even at individual level, corresponding to increased uncertainty and risk in product and labour markets.

We will examine these competing requirements over wage developments below. It will be shown that there is no simple formula for wage developments in the EMU area. It may, however, be useful to set out briefly three "institutional" responses to this difficult situation.

One reaction to these potentially conflicting requirements is to advocate the strategy of labour market flexibility, involving a range of policies designed to dismantle the institutional supports of industrial relation systems and create competitive and flexible labour markets. This is not only a counsel of despair of some industrial relations specialists; it is of course widely believed to be the correct way forward by a large proportion of the economics profession. My own view is that the high tide of labour market flexibility is probably passing as there is an increased realisation that economies with well-functioning industrial relations systems carry substantial benefits for business as well as for labour: Cooperative industrial relations within companies allow management to give well-trained employees autonomy and responsibility; and effective systems of vocational training allow management and employees to invest in the necessary acquisition of skills. Moreover arguments on the need for flexible labour markets have been

based on high levels of European unemployment; if, as seems likely, steady macroeconomic growth within the EMU region continues over the next two years, and if this reduces unemployment, as again seems likely, much of the impetus behind the flexible labour market argument will fall away.

A second, quite alternative, institutional response is what might be described as EMU corporatism. This implies a system of bargaining and negotiating wage developments at an EMU level and involving social partners, member governments as fiscal authorities, and the ECB. Conceivably some elements of this may develop over a long period of time. But there are three major reasons why that is neither likely nor desirable. First, the complexity is too great. Second, there are no mechanisms comparable to those which exist within individual national economies for ensuring effective coordination across national wage-setting systems. Neither the European employer bodies, nor their union counterparts – either at industry or pan-industrial level – are in a position to enforce agreements. Moreover there are cross-national grounds for differences which make it difficult to see how national wage-setters can be sanctioned for departing from a putative European bargain. And third, the independence of the ECB is not something that should be compromised – at least so long as it adopts broadly sensible policies.

The third institutional response is one which I will draw out at the end of this discussion. It acknowledges the particular and difficult leadership position of German wage-setting as partial inflation-setter in Europe. It believes that something like the relation between the Bundesbank (German central bank) and German wage-setters needs to be reestablished with the ECB. It also sees as critical the role which the social partners at European and national levels, as well as national governments and the ECB, need to play in both the building of discussion fora and the provision of the expertise necessary to support such a system.

2. MACRO CONDITIONS

The ECB appears to be moving to something like an inflation target. Despite the rhetoric on monetary growth, it appears to take the forecast inflation rate as the dominant factor in its decision-making. It will be of importance that the ECB eventually adopts a so-called symmetric response function in relation to European inflation: namely that it raises short-term interest rates when it believes that European inflation is rising above the target inflation rate (say 2%), and symmetrically lowers interest rates when inflation falls below 2%.

What is the implication for EMU wage developments when the ECB targets inflation? If one believes that European interest rate developments are a key factor in explaining the growth of aggregate demand and hence output growth, then wage developments will be critical to reducing unemployment. That is to say: so long as wage developments are such as to keep European inflation below the ECB's target inflation rate, a necessary condition for reducing unemployment will be fulfilled.

What does the fulfilment of the target inflation rate imply for nominal wage developments? Price inflation is the sum of four factors:

- (i) Unit labour cost growth, ie nominal wage growth less labour productivity growth. This is weighted by the percentage of domestic costs in final expenditure.
- (ii) The percentage change in the cost of imports; this is composed in turn of the exchange rate and the development of import prices in foreign currencies. This is weighted by 100% less the percentage of domestic costs in final expenditure.
- (iii) The percentage in the average indirect tax rate.
- (iv) The percentage change in profit margins.

A common formula is that nominal wages should rise by labour productivity growth. If there is to be a single simple formula this would not be a bad one. But it can be seen to be inaccurate for several reasons.

Assume that EMU was a homogeneous economy so that no within-EMU differences needed to be taken into account. The *first* inaccuracy is that foreign costs might be rising faster than domestic costs. This would imply that nominal wages should rise by less than productivity to take account of increased foreign costs: In this context the decline of the Euro and the rise in oil prices are two factors which need to be taken into account. *Second*, any need to build up profitability, and *third* indirect taxes would also need to be subtracted out. On the other hand, *fourth*, the formula that nominal wages rise by labour productivity growth is too restrained because there is a positive productivity target of 2%: the other three factors being inoperative, wages could rise by 2% above productivity growth.

Two points are useful to bear in mind: The discussion in this section is a hypothetical one. It answers the question: what would the growth rate of nominal wages in the EMU area have to be (in some average sense) to ensure the ECB's inflation target is met.

Second, we have posed the question in terms of meeting the ECB target inflation rate. That would be a sensible goal to aim for if EMU aggregate demand growth was steadily bring unemployment down. But there might well be a case for a more rapid expansion of aggregate demand. A lower rate of growth nominal wage inflation than that needed to produce 2% inflation could do that in two related ways. It would bring

down EMU short term interest rates (so long as the ECB was following a symmetric response function) which would put downward pressure on the Euro, hence lowering the real exchange rate of the EMU area against the rest of the world. And the effect – the reduction of the real Euro exchange rate – would be reinforced by the fact that EMU unit labour costs would be lower than they otherwise would have been.

3. INTRA EMU REAL EXCHANGE RATES AND NATIONAL WAGE DEVELOPMENTS

There are two reasons why it is unrealistic, as well as undesirable, to imagine that wage developments in each member state in EMU will be the same. The first is that not all member states have wage-bargaining systems which are coordinated, ie which have the capacity at the national level to reach agreements on broadly similar wage developments across different sectors. The French system has become significantly less coordinated than it was; it is unclear what capacity the Greek system has to coordinate wages, and what the Irish will have when unemployment falls to low levels; there are similar question marks over Spain and Portugal; and the UK, if it were to enter EMU, would represent an almost completely uncoordinated economy.

Secondly, it is not necessarily desirable, even for economies with effectively coordinated wage setting possibilities to set nominal wage growth equal to some pan-EMU target. This is because a country may well wish to reduce its real exchange rate within EMU. The most obvious situation in which it would want to do so would be if unemployment in that economy was high relative to the rest of the EMU area.

The single currency takes away by definition the possibility of nominal exchange rate changes within EMU. But the real exchange rate of an economy is the ratio of that economy's unit labour costs to the unit labour costs of its competitors weighted by world market shares. Hence, given domestic productivity growth and foreign unit labour cost growth, a moderation of nominal wage growth reduces the real exchange rate relative to what it otherwise would have been.

There is considerable evidence that a reduction in the real exchange rate improves employment; in fact wage moderation for the economy as a whole is significantly more effective at creating employment via the real exchange rate mechanism than is wage moderation at the bottom end of the labour market. Thus it is important that individual member states keep open this option.

The importance of the option is increased by the fact that governments will have more room for fiscal discretion within the single currency. They will have more room

because financial markets can no longer single out the governments of individual economies, since interest rates are de facto determined at EMU level. In addition, it is clear that the Stability Pact is unlikely to operate with the rigour which its German progenitors had originally hoped. And in any case, if there is a phase of significant growth in EMU member governments are likely to take advantage in building up long-term sustainable fiscal positions, thus permitting future short-term discretionary behaviour within the constraints of the Stability Pact.

We may therefore be moving into a world in which social contracts at national level will be seen as a means of combining some degree of fiscal discretion in the presence of adverse (or mut. mut. favourable) asymmetric shocks with some degree of real exchange rate flexibility for individual member states.

4. PRACTICAL PROBLEMS AND INSTITUTIONAL POSSIBILITIES

The last two sections have set out the importance of the correct average growth of nominal wages in the EMU area and the importance of allowing differential growth of nominal wages across member states. Both are necessary if unemployment in EMU is to be substantially reduced. But the very act of setting out these requirements makes clear how difficult they may be to achieve.

This final section looks at how an institutional solution may develop – indeed may already be starting to develop – to solve these apparently inconsistent requirements. Two complicating factors will be put aside: the lack of wage-coordinating capacity of some EMU member states; and the extent of the development of local and individual bargaining.

In addition, the idea that unions can stimulate a consumption-led boom via aggressive wage bargaining needs to be discarded. If it were the case, life would be easy indeed. It is not. An increase in nominal wages in a single economy leads to an increase in real wages only in the short run; prices react relatively quickly to preserve profit margins; real wages go back to their original level; but inflation will have risen and, if central banks are non-accommodating as was the case with the Bundesbank and is with the ECB, they will react with deflationary policies. Only if the economy is open will an increase in nominal wages raise real wages; but that is because the increase makes foreign goods cheaper – the relative price of domestic goods remains the same; hence the increased purchasing power goes into imports not into domestic goods.

Equally, it is sometimes argued (often as a further justification for adopting an aggressive wage bargaining strategy) that wage restraint did nothing to reduce unem-

ployment during the 1990s. The truth is more complicated: the deflationary reaction of the Bundesbank between 1992 and 1994 was the consequence of inflationary wage increases just before and after German unification and of the government's fiscal deficits. The Bundesbank's reaction was sufficiently severe to change growth expectations and investment behaviour by German business; and in forcing high interest rates on Europe as a whole to deflate Germany's main export markets. Wage restraint throughout this deflationary period was therefore not associated with employment recovery. Only with monetary relaxation in 1996 and the sharp fall of the European currency system against the dollar did European growth begin to recover.

The situation is different today for two reasons. The ECB appears – thus far – to be behaving more sensibly than did the Bundesbank in not reflating earlier in the 1990s; this reflects at least in part its composition and constitution. In addition, Europe is in an upswing not a deflation.

How then are the advantages of coordinated moderation at European level and differentiated moderation at national level to be developed institutionally? One possibility is to attempt to develop European bargaining. For reasons discussed earlier this seems unlikely to be successful.

The alternative solution is the leader-follower solution with German wage-setters taking the leadership role. It has four components:

- (i) In EMU inflation, German inflation plays a preponderant role, because of: the weight of the German in the EMU price inflation index; the following of German wage agreements in part by wage-setters in other EMU economies; and the following of German prices by price-setters in other EMU economies.
- (ii) The ECB focusses at least partially on German inflation in forecasting EMU inflation and hence deciding on its interest rate responses.
- (iii) German wage-setters have to take account (whether through forecasting or discussion or even agreement) of the extent to which wage-setters in other EMU economies will want to diverge from a German settlement. Take a completely abstract example: Suppose German wage-setters want to reduce unemployment by 1%, and this requires keeping EMU inflation in line with the ECB target inflation of 2%. If Dutch wage-setters want a faster reduction of unemployment, Dutch wages will need to fall relative to German; but now Germany will fail to hit its unemployment target, because it will lose employment to the Netherlands. Therefore German wage-setters will have, *cet. par.*, to go for a lower inflation rate than the ECB target.
- (iv) In order to make this type of arrangement viable, there are two critical informational/discussion nexuses which will need to be developed at a European level.

- The first needs to link the ECB with wage-setters in order that there be maximum understanding by the ECB about the relationship between wage bargaining procedures and the generation of European inflation and maximum clarity by wage-setters about prospective ECB responses to their wage-setting behaviour.
- The second needs to provide German wage-setters with as clear a view as possible of the wishes of wage-setters in different countries.

Thus the responsibility of the social partners at European level of the member governments and of the ECB will be to build these fora in which information can be exchanged and expertise built up.

**COORDINATION OF COLLECTIVE
BARGAINING POLICY IN THE
EUROPEAN METALWORKING SECTOR:
A RESPONSE TO THE CHALLENGES
POSED BY THE EURO**

1. A fresh wind is blowing through the euro-zone. The single European currency is not only shaping a new environment for economic, financial and monetary policy, it is also creating new conditions for the collective bargaining policy conducted by trade unions. The competition on financial and commodities markets will intensify, and this will impact directly on the cost situation at production sites. The euro is europeanising policies governing interest rates, the money supply and exchange rates. Accordingly, this "changing regulatory framework" will undeniably affect the employment situation, impacting on efforts to safeguard existing jobs and create new ones.

Even so, most trade unions still have a very limited understanding of the operating mechanisms of the new single European currency. They correctly point out that the switch to the euro will result in a new means of payment, and therefore a new unit of account. The exchange ratios are permanently fixed, eliminating the possibility for revaluations and devaluations. In addition, for the currencies joining the euro, there will no longer be any conversion costs within the euro-zone.

Last, but not least, in 2001 new euro coins and banknotes will be issued. The new currency will conquer money markets and thus become more than just bank money for financial transactions, as has been the case since 1 January 1999.

However, the key factor in evaluating the euro is not the form it will take, but rather the fact that its introduction entails a decisive transition from monetary control by national governments to a new, European system of rules. Henceforth, everything which in the past was more or less a matter of national discretion and organisation will be consistently europeanised. In the European debate, the importance of asymmetric shocks is frequently pointed out, but from the unions' perspective it is just as important to know how to respond to symmetric crises using the resources of monetary, exchange-rate and financial policy. The cyclical trend of free-market economies, with their ups and downs in terms of the volume of business done and

levels of employment, constitutes just as great a challenge to those entities seeking to control and organise it as the asymmetric effects caused by external factors such as fluctuating oil prices or natural disasters.

The introduction of the euro has seen vital tools for influencing monetary, exchange-rate and financial policy transferred from national institutions either to European institutions or to European rules. This europeanisation of monetary and financial policy is the real key innovation associated with the introduction of the euro. But if the key instruments for exerting short-term control, like the Stability and Growth Pact, are europeanised and thereby removed from the sphere of national influence, the following question arises: what role will collective bargaining policy, which has in the past been defined at national level, play in future in such a concept of European integration?

Is collective bargaining policy set to become the whipping boy of a failed economic policy? Will it become a primary, or even worse a secondary instrument of national competition policy? Will it help to intensify the competition between national production sites and sectors to undercut each other? Or can collective bargaining policy break free from such a policy based on mutual underbidding and, through coordination at European level, create the right environment for people to improve their own living conditions?

2. This pinpoints the central question regarding the role of collective bargaining policy following the advent of the euro. In the light of the challenges of globalisation, the metalworking sector in Europe is facing dramatic upheavals. On the one hand, the main characteristics of industrial developments in Europe are mergers and concentrations into ever larger corporate units, whilst on the other hand the trends towards splitting up and decentralisation are gaining in strength. The European metalworking sector has become a key strategic actor in the context of this structural change. In so doing, it is also reacting to the new environment of a globalised world market, in which the sector is operating successfully on its European basis. Up to now, European integration has also been a clearly successful model for European industry.

Above all, European integration has also meant market integration. The objective has been to create a level playing field, in particular by overcoming barriers blocking access to markets. The associated process also entailed overcoming protective rules at national level. From the European perspective, simply doing away with protective and organisational rules is not sufficient. Instead, it has to be ascertained which European rules are needed, for example from the social, political and ecological standpoint, to rule out the possibility of socially undesirable consequences.

This is the thinking behind the development of an EMF “European coordination rule” to be used in supporting a coordinated, productivity-oriented wage policy on the part of Europe’s metalworkers’ unions.

3. Collective bargaining policy is not just *any* area of trade union activity: it is the cornerstone of workforce representation, in two ways.

First of all, from the moment the trade unions were set up, and until today, collective bargaining policy has been the main argument for amalgamating into unions. Workers have joined forces and organised themselves into unions to eliminate competition with each other and thus overcome their own weakness vis-à-vis a powerful, – indeed, sometimes overpowering – employer. Joining together in a union put an end to competition to underbid each other. Unions became employers’ contractual partner in bargaining about employees’ working conditions and specifying them in contracts of employment.

This still remains the case today, and continues to account for a large share of the unions’ social and political legitimacy.

Much of the unions’ future viability in the European social model will depend on their strength and prospects with respect to their successes in shaping collective bargaining policy and using collective bargaining to protect workers, and on their ability to achieve their ends through collective bargaining in a changed environment.

This brings us to the second aspect, namely the importance of collective bargaining policy in Europe. Among many apt and certain less felicitous attempts to sum up the characteristic defining features of the European social model, one approach to this question remains particularly convincing, namely the contention that the essence of the European social model is to be found in its culture of consensus-building in social matters. Working conditions are not defined by the government in an authoritarian manner or sacrificed to the cyclical trend of markets; instead, they are regulated and stipulated by a series of agreements. Europe as a social model is essentially a “collectively agreed” space, even if the European level itself is only tentatively making practical use of this insight (which is nothing new). In this regard, the euro will act as an accelerator, thus helping to consolidate and expand the basis for European collective bargaining policy, including through a closer, more intensive coordination of national collective bargaining policy.

Accordingly, the europeanisation of collective bargaining policy does not mean an intrusion into the autonomy and identity of this core area of national trade union policy. Instead, it represents an enlargement and expansion of their prospects for protection and organisation.

It is no coincidence that the initiatives taken to forge a European “bargaining space” should have found room for development, in the first instance, in the relatively “soft” and “qualitative” policy areas designed to protect the workforce and shape new developments, such as parental leave, part-time work, and fixed-term contracts. The ETUC has done pioneering work in this regard in its negotiations and subsequent agreements concluded with UNICE and CEEP.

These boosts and successes in shaping Europe into a bargaining space are unprecedented, even if the individual arrangements agreed leave something to be desired and some demands cannot be pushed through.

This is a reflection of the balance of power obtaining at European level: the pressure to engage in bargaining and conclude an agreement does not stem from the independent power and strength of the unions, which know that they enjoy the backing of their members and sections of the public. At European level, unions cannot (yet) achieve successes on their own by issuing demands or staging token strikes, demonstrations and maybe industrial action. Union demands are (still) being realised at European level thanks to the “stick” wielded by the European Commission in the form of its directives. Employers only consent to bargaining and agreements if they can see something to gain for themselves. Their general resistance to a European form of collectively agreed regulation in this connection remains unaltered: it is the threat of a directive which brings them to their senses and to the bargaining table. Employers’ behaviour is often characterised by the motivation to prevent something that would be “worse” from their point of view. So they still have no constructive, active approach, and this will remain the case until the unions acquire genuine power of their own through metamorphosis and integration at European and national level.

Whereas the main focus of this “multisectoral” bargaining approach is to create a framework for labour law and social policy, the introduction of the euro brings into sight the collective bargaining policy which is directly cost-related.

Although it is still too early to speak of a European wage or collective bargaining policy, such a policy is slowly but surely moving to the centre of a debate on the basic orientation of European economic policy – a debate that is not just macro-economic.

5. The European metalworkers’ unions and the EMF prepared for the introduction of the euro “just in time”.

Their assessment was clear: the euro is more than new cash; it represents a switch to a new European regulatory system. Crisis management tools that were previously national are being europeanised. Before the euro’s introduction, reactions to

the ups and downs of the economy as a whole – its booms and busts – came from the national level. The value of the currency abroad, interest rates, the money supply and budgetary policy were clearly the province of national decision-making, even though national independence in this area was already greatly restricted in this connection, owing to the fixed exchange rates in the DM zone.

In principle and in very practical terms, the responsibility for monetary policy is being shifted to the European Central Bank (ECB), whilst budgetary policy is subject to the stringent European criteria laid down in the Maastricht Treaty.

Accordingly, the main monetary and financial policy tools are to a large extent being europeanised, both directly – through the ECB's monetary policy – and indirectly, through the rules and criteria governing national budgetary policy.

After monetary and financial policy, wage policy is the last-remaining province of primarily – or even exclusively – nationally oriented policy.

Now that the euro is here, there is therefore a danger that wage policy will become the safety valve for adjustment and for the mounting pressure to adjust. This will in turn directly buttress the tendency, already visible today, to use wage policy as the central competitive tool in rivalries between regional and national production sites. Wage policy can be used to influence unit labour costs directly, and relatively low pay settlements lead to relatively low, possibly falling unit labour costs. In the long run, and on average, the competitiveness attained and developed in this way attracts investments and safeguards and promotes jobs, jobs that are for the most part taken away from neighbouring, competing countries. These neighbouring countries react through their trade unions within a purely competitive framework, paving the way for (relatively) low wage agreements in response – and thereby setting off the downward spiral.

6. The europeanisation of money and the associated switch to a new European system of rules are really putting the collective bargaining policy conducted by Europe's metalworkers' unions to the test. Collective bargaining policy will remain a core task of the national unions for a long time yet. This is both because of substantial economic differences between individual countries and owing to the practical non-existence of a bargaining partner representing the employers at European level.

This makes enhanced European coordination between the European metalworkers' unions a main priority if the unions are to rise to the challenge. Coordination of this kind must strengthen the roots of the unions' capacity to push through their demands. This "added value" of European coordination will be achieved by easing, or even eliminating, the pressure of erosion by implementing a parallel, coordi-

nated collective bargaining policy with respect both to pay increases and to the legitimacy and binding nature of national systems of collective agreement.

Because of the almost complete transparency of costs and wages in the euro-zone, there is 'nowhere to hide': deliberate wage- and cost-undercutting for competitive reasons can immediately be exposed as "social dumping". In the long run, a "beggar-thy-neighbour" policy cannot be sustained. After just the first few twists of the downward spiral, everyone is worse off than before: in the long run, and on average, this type of competition-driven collective bargaining policy does not pay.

In the EMF, two instruments for coordination have been developed and approved. Binding European standards for the working time policy of metalworkers' unions were adopted in the EMF's Charter on Working Time.

The reduction in weekly working time to 35 hours has become a major concern. A maximum annual working time of 1,750 hours was also adopted as the minimum European standard for collectively agreed annual working time, as was an annual maximum of 100 hours of overtime, to be compensated exclusively by payment in lieu.

7. The EMF and its affiliates broke new ground with their "European coordination rule" for the nominal wage policy of their national member unions. In adopting this rule, the EMF has laid down the guideline that unions' national wage policy should be judged in terms of the scope it offers for income redistribution, which consists of inflation rates and (national macroeconomic) rates of productivity.

A productivity-oriented wage policy of this type is economically imperative and socially fair.

First of all, a wage formula like this is consistent with attaining the goal of stability. Agreements concluded within this framework generate no inflationary pressure.

Agreements concluded on this basis are neutral with respect to competition. Relative improvements in competitive situations are brought about by improvements in efficiency, and the trend in productivity becomes the key variable in the development of prosperity.

A productivity-oriented wage policy based on the EMF's "European coordination rule" also fosters growth.

Cost increases are confronted with corresponding wage increases. In terms of circular flow theory, these are critical preconditions to fending off deflationary threats. Wage decisions in this context are also neutral with respect to distribution: a productivity-oriented wage policy does not alter the situation as regards distribution policy. To the extent that redistribution is required in view of the systematic skewing of distribution policy, other – possibly better – instruments than a nominal wage policy have to be used.

A productivity-oriented wage policy is therefore also a clear rejection of the demand for equal wages in today's Europe, and a rejection of equal pay increases. The size of pay rises is ultimately determined by inflation rates and national macro-economic productivity, and this volume of distribution varies extremely widely from region to region and country to country.

8. The EMF's "European coordination rule" specifies the leeway for income distribution, which in turn defines the economic framework, the calculated volume of the pay rise.

The choice to use this leeway for income distribution, which is economically equivalent in all countries, sectors and companies, falls entirely within the decision-making autonomy of the EMF's national member organisations.

The leeway for income distribution can be fully utilised through nominal wage increases, and/or the reduction of working time, and/or equal treatment initiatives, and/or training times, and/or participation times, and/or employment-related measures.

However, employment measures have to be contractually regulated; performance and compensation have to be contractually defined. A general decision not to use the full leeway for income distribution by no means leads to a general improvement in competitiveness and employment. In the euro-zone, a general decision not to use the rise in productivity and exclusively pursue the goal of safeguarding real wages will also lead directly to job gains in one country that are substantially supplied by job losses in others.

This defines the meaning of national responsibility in the use of the volume of distribution: the decision on the specific demands should remain anchored on the basis of the specific interests and specific economic and social situation of the workers affected.

The concept of the "European coordination rule" has the attraction of linking the coordination of a European framework for reaching agreement on the leeway for distribution (as defined by inflation rates and growth in productivity) with a national responsibility for the implementation and actual practice of the member unions' collective bargaining policy.

The EMF's "European coordination rule" for a productivity-oriented wage policy strengthens the member organisations' independence by sheltering them from the pressure to be evasive and from the downward pressure generated by the competition to underbid each other stemming from a competition-oriented wage policy. It is not only compatible with different institutions, traditions and cultures, it also reinforces the roots of our joint strength, because it defines the economic frame-

work. It does not undermine our integrity and self-image, but safeguards and further legitimises national and European success.

9. This “European coordination rule” for the wage policy of the EMF’s member unions represents a clear rejection of the concept of a “moderate” wage policy once again being advocated by the Commission. In its latest annual economic report, the Commission also shows itself to be still susceptible to current trends and ideology, while at the same time remaining largely opposed to empirical knowledge and conceptual criticism. The “moderate wage policy” will lead, so it argues, to job creation through wage restraint. Gains in employment will supposedly be created through pay settlements that are below the rates of productivity. This concept, which might prove temporarily helpful to small regions benefiting through competition by price undercutting, is by no means a guideline for the euro-zone economic space. What is being advocated here is a distribution of profits that is hostile to demand and growth, with obvious disregard for empirical knowledge, history and concepts.

The fact that judgement of the trend in profits and profit distribution is also easily obscured completes the picture. A productivity-oriented wage policy is a clear alternative to the moderate wage policy. A requirement here is that as the macro-economic policy mix is increasingly reoriented, the productivity-oriented wage policy is also subjected to a committed reassessment by various Social Democratic and Socialist regions.

10. European wage policy coordination requires appropriate instruments. The most important task is to build up an information, communication and coordination system within the EMF itself. The EMF’s Collective Bargaining Committee has made good progress in this respect. Through its committed and conceptually based work, it has created the preconditions for the coordination rule. The Collective Bargaining Committee will continue to serve as the central coordination tool in the EMF.

In addition, the EMF will promote the regional coordination of its member organisations. The example of wage policy coordination, for example between Belgium, Holland and North Rhine-Westphalia, will provide a structure. The exchange of observers in the collective bargaining committees, the participation in each other’s bargaining rounds, and the exchange and joint discussion of data and analyses will establish an initial basis for trust, but they will also constitute a new potential for action that results in new and improved conditions of implementation for all participating unions. There are also links between the Danish unions and *IG Metall*; between the Nordic countries; between Germany and France; between Bavaria, the Czech Republic, Slovakia, Hungary and Austria; between the United Kingdom and Lower Saxony; and between Baden-Württemberg and Switzerland.

These links could generate a momentum for coordination that will help to broaden the horizons of a collective bargaining policy that is, at present, merely national.

The EMF is also striving to boost the sectoral orientation of this coordination. Sectors manufacturing largely identical products, using similar technologies and forms of work organisation, and sharing the same market situation are ideally suited to a coordinated approach by metalworkers' unions.

At the same time, the EMF is enhancing the coordination of European Works Councils. Collective bargaining policy is the job of trade unions, not an area for information and consultation bodies to get involved in. But this involves strengthening and developing unions' negotiating potential.

Central coordination by the EMF's Collective Bargaining Committee, regional coordination by the cross-border interlinking of national collective bargaining policy, focusing on suitable sectors, and stronger trade union support for the European Works Councils: these are the strategic starting points and instruments of the EMF's coordination rule.

WAGE COORDINATION IN THE EUROPEAN UNION – CHALLENGES FOR THE COORDINATION OF COLLECTIVE BARGAINING

Since the launching of the Euro, the single European currency, the debate on the macro-economic situation focused on wage increase, particularly about its importance and determinants. In this specific wage area, many economists refer to the academic theory: wage rises awarded every year to the workers should compensate, to the maximum, for the price increase plus the labour productivity gains. This means that labour productivity gains should lead to the same rise in real wages (wages divided by inflation), then, maintaining the share of wages in the national wealth.

In order to turn (*orienter*) the debate, the European Commission is editing guidelines on the link wage-productivity. Therefore, the Commission introduced important amendments to this previous theoretical approach. For example, the 1993 EC White Paper (European Commission 1993) stated that “during most of the Eighties, real wages increased in the Community on average by one percentage point less than productivity”. The Commission was proposing that “this could constitute an acceptable rule of thumb [for] the necessary improvement in profitability and competitiveness”.

The Economic and Monetary Union (EMU) also led the European Commission to issue Broad Economic Guidelines (European Commission 1998 and 1999) with recommendation on wage setting. Indeed, the sharing of productivity became a very political issue, as now the European institutions entered this area which was supposed to be reserved to traditional wage bargainers (trade unions and employers).

Therefore, the Euro has changed the general environment where wage negotiations take place. This new environment is leading to more pressure on the national wage situations, in order to ease the competition between the different markets, goods, services, capital as well as for labour. The first part of this paper will focus on describing the new challenges that are facing the trade unions.

In a second part, we will then focus on the past evolution of wages, with regard to their share in the national wealth and the comparative evolution of their main determinants. The third part will try to analyse the shape of a wage formula at the European or national level, following the practice of use of the various determinants of wages

used in the EU countries. This wage formula could constitute a tool for bargaining in the national patterns of wage negotiation and would try to protect trade unions from entering in the downward spiral of wage dumping.

In Chapter 4 we will cover the most recent approaches towards coordinating collective bargaining at European level. The European Industry Federations are particularly important in this connection, because – despite vast differences in the collective bargaining systems with Europe – the sectoral level remains the dominant level for collective bargaining.

1. THE EURO, A NEW ENVIRONMENT FOR WAGE BARGAINING

As from 1993, the ETUC strategy on European Collective Bargaining (ETUC 1993) stressed that “the internationalisation of the economy, coupled with European Economic and Monetary Union (...) will bring changes to the national and European roles and responsibilities of the social partners”. It was forecast that “the goals and strategies of national union organisations needed to be harmonised in the context of the European industry committees”.¹ These objectives were supposed to tackle the main consequences of the Economic and Monetary Union (EMU) on collective bargaining with a view to coordination between national and European-sectoral level organisations.

Indeed, EMU will lead to many changes in the global socio-economic environment where social partners are bargaining. These changes may be grouped in three main categories and have already been anticipated by the Commission in its latest Economic Guidelines: a more limited framework for bargaining, a risk of social and wage dumping and a new framework on productivity redistribution.

1.1 A new framework for collective bargaining: a more limited freedom

The Commission’s Broad Economic Guidelines clearly state that “wage increases in the whole Euro area that are incompatible with price stability will inevitably lead to a tightening of monetary conditions in the euro zone, with adverse effects on growth and employment” (European Commission 1998).

This means that national bargaining for wages shall be consistent with the new inflation target of 2% chosen by the independent European Central Bank (European Central Bank 1998). In this regard, the monetary authorities will impose *de facto* a ceiling on

1 The European Industry Committees were renamed as European Industry Federations (EIFs) at the 1995 ETUC Congress.

nominal increases for wages, which is a new context for collective bargaining at national level. Nevertheless, if social partners are imposed a ceiling on the inflation based wage increase, a remaining part of relative freedom is concentrated on the sharing of the fruits of the productivity gains.

Moreover, the ECB will consider excessive wage increases as a new pressure on prices, leading to inflation. Thus, it can be argued that social partners will assume a new responsibility in relation to the reaction of the monetary policy to their wage bargaining. If the monetary policy is to be restrictive (e.g. higher interest rates), social partners, and moreover workers and trade unions will be guilty.

1.2 Convergence or divergence of wages and working conditions in the euro zone?

The second effect of EMU will lead to a double trend of convergence and divergence of wages between Member States: the new possible comparison of wages and prices across the Union could lead to new claims to an upward alignment on higher wages levels. According to the Commission, the "wage imitation effect need to be avoided, implying that labour cost differences between Member States should continue to reflect discrepancies in labour productivity"(European Commission 1998, p. 11-12).

Nevertheless, regional differences in wage levels did not disappear inside monetary unified countries and the catch up process between lower and higher wage regions seems to be unrealistic. For example, a recent IRS study show that in the UK, the Hastings regional wage amounted only to 60% of the London wage in 1997 (IRS, 1998). This analysis can also be made on other similar cases: for example, although the reunification of Germany took place ten years ago, the wage level of the Eastern part is still lower than that of the Western part ; in Italy, there is also a constant difference between Southern and Northern wage levels.

At the same time, the economic theory of Optimum Currency Areas states that the adjustment effects will be transferred on the labour market (Arne Heise 1998). As currency devaluation and public budget support to a certain extent will not be allowed in the EMU, country-specific economic disturbances could lead to a slackened economy in a region or a country while others would not be affected. As a result, local unemployment would increase. Thereafter, the adjustment task would fall on wages that could decrease in this depressed region while they could increase in others. This reinforces the need for a federal system of redistribution of public assets from rich to poor regions under EMU conditions and for bargaining coordination between trade unions.

The Commission clearly says "in EMU, wage adjustment will need to play a more important role in the adjustment to changing economic circumstances"(European

Commission 1998, p. 11-12). There is a risk of differentiation of wages, or of working conditions in order to increase adaptability of the labour market to this new framework.

At the same time, employers could be tempted to decentralise bargaining at enterprise-level in order to increase flexibility with a view to promoting cost-competitiveness (Sisson et alii, 1998). Wage cost, organisation of working time and conditions and productivity adjustment will become one of the major sources of competitiveness for European enterprises, as the currency exchange rate will be irrevocably fixed.

1.3 A new limited framework on the sharing of productivity increases

As a consequence of the ceiling imposed by the new monetary framework, the main wage bargaining could concentrate on the sharing of productivity gains between workers and employers. Here again, the Commission reports that “with respect to labour productivity growth, wage increases should take into account the need to strengthen, and subsequently maintain, the profitability of capacity-enhancing and employment-creating investment, whilst supporting the purchasing power of wage earners” (European Commission, p. 11-12).

The concept of division of the productivity gains could be revised. It could be therefore interesting to verify whether the increase of the share given to firms is actually leading to an increase of the employment-friendly investment. In this case, it could be interesting to improve the trade unions’ position on this subject. So they could reacquire bargaining powers in order to increase wages over the minimum imposed by the ECB.

For example, the ECB’s President, Wim Duisenberg, recently argued that “in terms of the outlook for price stability in the medium term, it is essential that the immediate upward movement does not translate into general inflationary pressures and, in particular, that it does not trigger second round effects such as excessive wage claims”. Following a question on “a rough indication of the mark at which wage settlements may be excessive”, he answered that he “would hope that any wage settlement going in excess of the rate of productivity increase could be avoided” (European Central Bank 2000).

Most often, a new role of coordination is therefore proposed for the European level of trade unions, the ETUC and the Industry Federations. According to us, the content of this new role of coordination, already being implemented, should try to address these three dimensions:

- information on the consequences of EMU on national bargaining (new inflation target as a ceiling for wages, consequences of the strengthened competition on working conditions and wages...),

- coordination between national affiliated members on sectoral level in order to avoid competition between workers and unions,
- fresh thinking on the link wage-productivity (to create a new room for manoeuvre for trade unions in wage bargaining)

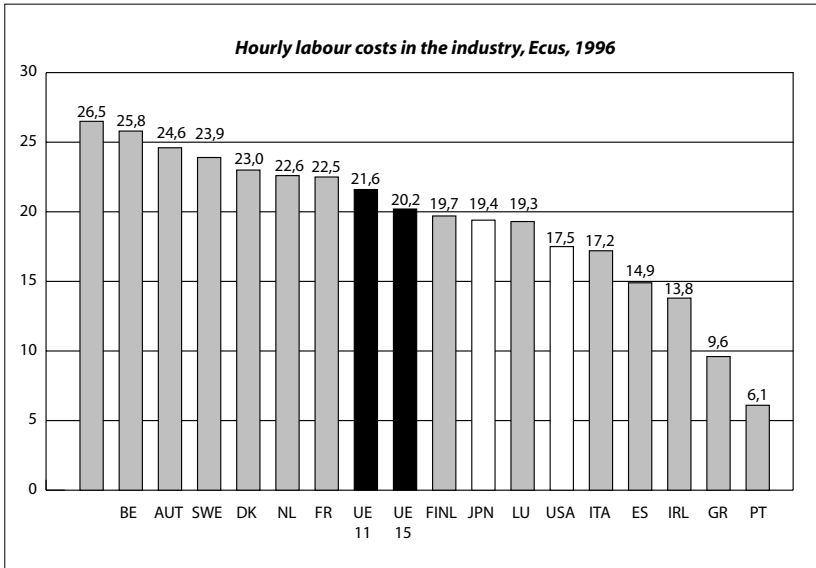
In this general context, the evolution of wages confirms that some initiatives should be taken in order to protect workers against wage dumping and wage differentiation in the European Union. Concrete initiatives to coordinate collective bargaining in Europe are discussed in the ETUC and some Industry Federations since the beginning of the 1990's (see chapter 4).

2. WAGE SITUATION IN THE EUROPEAN UNION IN THE NINETIES

This part of the article will review the situation of wages and their evolutions. This will help us in determining the main determinants of wages in Europe in order to come to a proposal for a pattern of coordination of wages in the European Union. Firstly, we will analyse the present discrepancies between wage levels in the EU Member States. Secondly, we will analyse the evolution of wages during the last two decades in connection to their main determinants. These two analyses will then help us to consider some important conclusions for the setting up of coordination between national trade unions.

2.1 Some important differences between EU Member States

The situation of the different wage levels in the European Union shows some huge differences. For example, taking into account the hourly labour costs in the industry sector as a basis, the gap between the highest level and the lowest one was of 20 Ecus (20 Euros) in 1996, according to Eurostat (see following chart). Germany (26.5 Ecus) was experiencing the highest labour cost in the EU, with Belgium, Austria and Sweden, while Portugal (6.5 Ecus) had the lowest level, with Greece, Ireland and Spain. The European average was of 20.2 Ecus in the meanwhile.



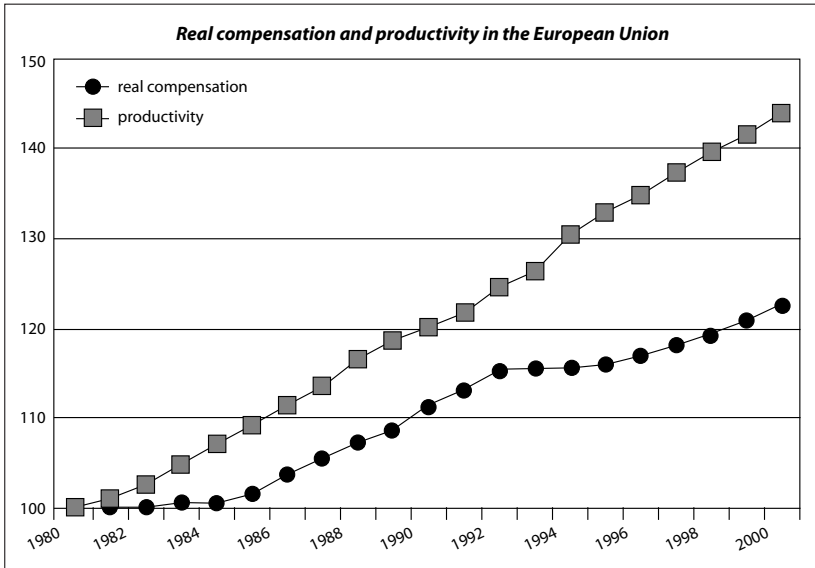
Source: EUROSTAT, News Release 74/99, 29 July 1999.

This shows very important differences between Member States in the levels of wages, due also to differences in the economic situation and the relative different levels of labour productivity. Therefore, the new comparability made available by the Euro may exacerbate the pressure on higher wage level countries and stimulate wage dumping in the lower wage level countries.

2.2 A limited role for productivity in supporting wage increases

On a longer term, the observation of the data shows also that real compensation (for real wages) did not follow the rate of increase in productivity.

The chart below shows the evolution of real compensation of employees and labour productivity per head with a 100 basis in 1980. The chart shows that during the beginning of the Eighties, real wages did not follow quite well the productivity gains, thus causing a gap and a delay of compensation for productivity. After the mid-Eighties, the wage increase followed the productivity gains, without reducing the gap opened in the early Eighties.



Source: European Commission, *European Economy, Annual Economic Report 1997 and Supplement A - Economic Trends*, N°4, April 1999.

Real compensation per head and labour productivity per head.

The Nineties and the economic crisis brought back a situation of stagnation of the real wages. The increase in real wage is almost stopped between 1992 and 1996, and in some cases, losses in real income were also identified (Fajertag Eds, 1999). At the same time, it may be observed that the labour productivity is increasing at higher rates than in the Eighties, under the circumstances of large redundancy plans due to the economic crisis. The end of the Nineties is rather marked by a return to net real wage increases, towards the general path of increase in wages observed in the late Eighties. Nevertheless, the specific situation of the early Nineties widened the gap between the levels of productivity and the levels of wages. Therefore, the link between productivity and wages, already weak in the Eighties, was reduced in the Nineties.

The result of this chart showing a low incidence of productivity on wages is even confirmed by econometric regressions calculated for the European Commission in 1996 (Mc Morrow 1996). These regressions link wage levels to the levels of prices, unemployment, productivity, the terms of trade and the variation of unemployment.

Estimated regression for factors explaining the increase in nominal wages (W)²:

$$W = 6.03 + 0.91 P - 0.5 U - 0.45 dU + 0.03 Pty - 1.07 ToT ; R^2 = 0.97$$

Source: EC, *Economic Papers*, 1996.

As a result, prices are estimated to be more relevant to explain wage increases than productivity as the coefficient is lower for the latter.

The main determinants of wages are therefore prices, and particularly terms of trade.

- When terms of trade are increasing, European export prices are increasing at a higher rate than import prices: the European economy is losing competitiveness. In this situation, wages are pushed down in order to restore competitiveness (this is why the coefficient is -1.07: when terms of trade are increasing by 1%, wages are pushed down by 1.07%).
- The second determinant is the level of prices, e.g. inflation. When inflation is increasing, it is driving higher wages (with a 0.91 coefficient, when prices increase by 1%, wages increase by 0.91%).
- Productivity is the lowest determinant of wage variation (coefficient 0.03), as it could be observed from the statistical data shown in the previous graph. This means that on a long term, productivity is not enough taken into account in wage evolution at the European level.

2.3 Wage determinants at the Community level

From the empirical analysis of the evolution of wages on the last decades, we may consider that the following determinants have different importance in wage setting.

- *high incidence of the increase in prices*, including internal inflation and external competitiveness
- *low incidence of the increase in productivity*, or generally used as an additional reason for wage moderation
- *real wages are not compensating for productivity*: real unit labour costs (real compensation divided by productivity gains) are decreasing and employers are benefiting from productivity gains

2 W = wage, P= Consumer prices, U= Unemployment, dU= variation of unemployment by comparison with the previous year, Pty= labour productivity, ToT= terms of trade, Source: EC, *Economic Papers*, 1996

The challenge is therefore to establish proposals for coordination that could be used in the new environment described in the first part (EMU, role of the European Commission and ECB in wage setting). At the same time, the aim of coordination could be to try to reverse the situation on productivity, in order to increase its role in the wage setting in the European Union.

3. TOWARDS COORDINATION OF WAGE BARGAINING IN EUROPE

Facing the new challenges and the past evolution of wages; it could be envisaged to propose to coordinate wage claims in the European Union. Nevertheless, as we can see from the previous analysis, the aim of coordination will have to take into account two essential challenges:

- To stimulate trade unions in playing a pro-active role in the framework of the Macroeconomic Dialogue adopted in the European Employment Pact (Foden, 1999).
- To create common references in order to avoid wage dumping between the Member States while guaranteeing the catch-up of the low-wage countries such as Portugal, Greece, Ireland and Spain, and without putting pressure on the high-wage countries such as Germany, Belgium, Austria and Sweden.

Therefore, one form of coordination could have the form a “reference formula” for calculating wage increases at a national level. This formula would allow room for manoeuvre for low-wage countries to achieve higher wage increase based on the productivity differentials. It would therefore be a tool for avoiding wage dumping as well as for reducing wage disparity throughout the European Union.

3.1. From wage determinants at national levels...

The ambitious project of using a common “framework formula” for wages should nevertheless be discussed among national trade unions in order to include the determinants of the wage claims commonly used in Europe. From previous research (Mermet, 1999), we can analyse, on a minimum basis, seven existing determinants taken into account when formulating wage demands in Europe.

These include:

1. *The rate of inflation*: it is the most important reference for wage bargaining in Europe, used in almost every country,
2. *The economic situation*: including economic growth and other macro economic indicators (consumption, private investment...), often used as a background information supporting for wage claims above the rate of inflation.

3. *Corporate profits*: it is used as specific information either at national centralised or most often at enterprise level for arguing higher wage claims.
4. *Productivity*: used as an integrated factor to the wage claim formula only in Germany, used in other countries as a further basis for wage claims. Generally, it is promoted by unions with a view to a total compensation of productivity in wage rises.
5. *Comparison with other countries*: average European wage or neighbouring countries' wages are used in smaller countries either as a limit (Northern countries) or a target (Southern countries). A limited number of countries is concerned.
6. *Unemployment levels* and scope for job creation.
7. *Redistribution* as reduction of the earning gap between low and high wage levels or between men and women is sometimes used in some countries.

Nevertheless, if these seven determinants are used in general in a lot of European countries, it is therefore difficult to find a compromise on which should be chosen at the EU level. A flexible formula at the EU level should nevertheless include a minimum of determinants in order to reduce problems of calculation.

3.2. Towards a formula for wages at EU level

The reference formula, which could be called "European Framework Formula" should *not be a binding reference* for national trade unions. It should be considered as a general indication for wage bargaining systems at the national level, in the context of the new Economic and Monetary Union. Indeed, EMU is leading to the need of a guideline coming from trade unions, otherwise this area will be left to the Commission and the ECB, or the government. However, it would be the national trade unions' responsibility to use the reference formula as a reference while bargaining in their usual national socio-economic environment.

For example, the recent development of comparisons with the European average wage in several countries is leading to "*de facto*" coordination. But this coordination is not under the control of the unions as it is rather a pressure on national bargaining systems.

At the same time, there is a *convergence on the use of the rate of inflation* as the main argument for wage claims between all national models. However, the important *disinflation* observed in Europe for the two last decades is now limiting the margin of discussion for trade unions. So it would be important to enlarge the use of the *productivity gains* as a supplementary tool in wage bargaining, which as for now too limited in Europe.

Other determinants such as the economic growth and corporate profits could be used in order to support the data result of the framework formula. Moreover, it could be

used in order to achieve a higher target than the framework formula, for example in the catching-up countries. In these particular cases, it could be envisaged that the high economic performance (high economic growth and labour productivity rates) stimulate pay claims above the level of the framework formula.

This kind of *flexible coordination* would support “wage bargainers to be highly responsive to threats from fiscal or monetary authorities to respond to inflationary settlements with deflation” (WZB 1997). Moreover, several studies showed that a “coordinated” wage bargaining structure was giving better results in terms of low inflation and low unemployment than a decentralised system.

3.3. A proposal for the European Framework Formula

The Formula addressed to the sectoral level may:

- be set-up as a “*yearly recommendation*” for national trade unions to aim towards a result on wage rises following a particular procedure.
- provide with an *indication* on what may be the *optimal wage rise* at national level.
- have the following presentation:

Nominal wage increase

$$= \text{rate of inflation} + \text{gains in productivity}$$

Rates of inflation and productivity to use will have to be defined after discussions to be decided at the EU level, or at the level of bargaining, according to the available data and to the situation in the sector

Possible uses of the Wage Formula

- Wage increases only

Or other possible uses may be included:

- Job creation
- Working time reduction
- Training
- Early retirement scheme
- Reduction of gender gap...

Along to this coordination of wage demands, other forms of flexible coordination may be achieved in other fields of workers’ protection. For example, initiatives of coordination may cover working time, retirement schemes, equal opportunities or training periods.

Moreover, trade unions should try to stress that wage moderation is not the single solution to unemployment. Particularly, the new economic situation calls for new initiatives taking into account new thinking of the role of wages in the economy.

- First of all, it is usually agreed that a large part of the actual unemployment is structural, linked to a lack of skill or employability. This implies that wages are not responsible for the low employment rates, but that training and upgrading of skills is necessary for reducing unemployment.
- Secondly, it is clear that wages are no longer responsible for the return of inflation, and that price rises remain at historically low levels in Europe. Other components, identified by the ECB, may stimulate inflation such as the recent rise in crude oil prices or the appreciation of the Euro *vis-à-vis* the Dollar and other currencies, thus increasing the import prices.
- Thirdly, it is generally recognised that losses in real income for wage earners also have a negative impact on the internal demand in the EU, and therefore reduce the economic growth and the employment creation. A further reduction of the workers' real incomes would reduce the economic recovery in limiting private consumption. Furthermore, it would be counterproductive in the Euro zone: every country would try to reduce wages more than neighbours do. This would create a downward spiral for wages, then reducing EU internal demand and growth, leading to a viscous circle.

Therefore, the principles for coordination should be linked to this new thinking about the role of wages in the economy. This initiative of coordination, among others, should also show that trade unions are involved in the European discussions on wages, not only in the view of wage moderation and its impact on inflation and employment.

4. THE EUROPEANISATION OF COLLECTIVE BARGAINING POLICY AT SECTORIAL LEVEL – A SURVEY OF THE CURRENT SITUATION

There is nothing new about the need for Europe-wide coordination of national collective bargaining following the advent of European Monetary Union (EMU). Indeed, the subject has been discussed at length by academics and the trade unions since the early 1990s. In a nutshell, the academic position can be summed up in terms of the two following opinions. Neo-liberal economists expect monetary union to exert general pressure on collective bargaining, pushing it towards stronger decentralization and a broader spread of wages. One member of the former Central Bank Council

of the *Deutsche Bundesbank* couched such a forecast in unequivocal terms, saying that “the power of national wage cartels will continue to diminish” (Noé, 1996, p. 44). Furthermore, some people maintain that the Europeanization of collective bargaining policy will not help to bring down unemployment, and hope that wage settlements will continue to remain fragmented within the entire euro-zone (Gros, Jones, 1996, p. 67).

On the other hand, numerous academics pointed out at an early stage that monetary union would entail considerable risks in terms of wage-dumping and social dumping (by way of an example, see Altwater, Mahnkopf 1993; Jacobi, Pochet 1996; Pochet 1999, Martin, Ross 1999). The need for a convergent and coordinated collective bargaining strategy was also recognized by the European trade unions at an early stage. For instance, in February 1993 the ETUC’s Executive Committee adopted a position paper entitled “guidelines for collective bargaining and prospects for the development of the Social Dialogue” by a clear majority. According to this paper, there were two aspects to the task of Europeanizing collective bargaining: firstly, the positions adopted by the unions in national negotiations had to be underpinned by means of information and coordination at European level. Furthermore, collective bargaining policy at national level had to be complemented by cross-border and European negotiations. Furthermore, it was suggested that every two years the ETUC should arrange a comprehensive exchange of views on the primary aims of collective bargaining and the possibility of harmonizing them (ETUC 1993). In practice, however, it has so far proven virtually impossible to implement these far-reaching proposals. Recognizable progress has only been made in the context of the Social Dialogue. On the basis of the Social Protocol, three framework agreements have successfully been signed, namely on parental leave (1995), part-time work (1997) and fixed-term contracts (1999). By contrast, there has been no coordination of collective bargaining policy and in this connection it is surprising that the ETUC’s Collective Bargaining Committee, which could have made some headway with regard to coordinating collective bargaining policy, has been replaced by the “Industrial Relations Committee”, which has dealt less with the coordination of collective bargaining policy, and focussed more on the Social Dialogue.

The advent of EMU on 1 January 1999 stepped up the pressure on the unions to translate their findings, which dated back to 1993, into specific practical policy elements. The programmatic background to the new practical approach was the specific resolution adopted by the 9th Ordinary Congress of the European Trade Union Confederation entitled “Towards a European system of industrial relations”. This document started off by very clearly differentiating between the Social Dialogue at European level, the coordination of collective bargaining and the development of an auto-

mous system of European negotiations by the social partners³. According to this specific resolution, the primary aim of coordinated collective bargaining should be to secure fair incomes for workers, create new jobs and improve existing working conditions in Europe. "The European industry federations have the primary responsibility for co-ordination in the field of collective bargaining at the European level. Co-ordination has to be developed by means of a bottom-up strategy. As far as reasonably possible, the timing of agreements and bargaining rounds should be synchronised" (ETUC 1999) A strategy of this kind does not amount to a centralization of collective bargaining policy at European level, which would not have any equivalent in most European countries anyway; neither does it strive for a Europe-wide collective agreement, for bearing in mind the considerable differences within the various systems of collective bargaining existing within the European Union this too would be an impossible undertaking. Essentially, the aim within the context of the coordination strategy is to establish a network between the wide range of regional and international economic and social structures and traditions in a productive manner, i.e. coordinate them rather than standardizing them along the lines of old-style demands (Hoffmann, Hoffmann 1997 "standardization" in the sense of a "hierarchy option"). Indeed, European collective bargaining policy should aspire to coordinate and regulate "diversity" in this context.⁴

4.1. Prerequisites for the coordination of collective bargaining policy

In view of the deep-seated differences between existing systems of industrial relations and between the various systems determining collective bargaining negotiations, coordinating them at European level is certainly no easy matter. The fact that they are deeply embedded in the respective national systems and the considerable divergence between them are often used to justify the view that an attempt to coordinate them stands little realistic chance of success. Certainly, the frequent scepticism in this context is to be taken seriously. However, it should be emphasized that a coordination-based approach is not geared towards approximating them into a homogeneous European system of collective agreements. Instead, coordination should take account of regional diversity and develop a complementary European level. At the same time it should be noted that in spite of all these differences, the results in terms of collective bargaining

3 The development of a European bargaining system for the social partners necessitates the establishment of a legal framework at European level (see ETUI 1999 for details). Consequently, since the 1996 Intergovernmental Conference the unions have been demanding that European freedom of collective bargaining be enshrined in the EU Treaty.

4 Where the "network option" is concerned, see Ebbinghaus, Visser 1994

policy reflect a clear trend towards convergence (Traxler). The coordination approach must continue to promote this trend.

The success of any attempt to coordinate collective bargaining policy at European level will primarily depend on the following three factors in future:

1. Coordination has to be based on smoothly functioning national structures relating to collective agreements.
2. Efficient sectoral union structures are a prerequisite for coordination at European level.
3. The sectorally based European coordination of collective bargaining policy must be able to rest on a secure foundation as regards data and information.

Despite undeniable trends towards the decentralization of collective bargaining structures in Europe the sectors and branches of industry still constitute the main level of bargaining in Europe. At the same time, the tendency towards a company-based approach to collective bargaining cannot be ignored. Considerable difficulties are arising in Great Britain in particular, which has a long-standing tradition of fragmented collective bargaining. In France and Italy, too, companies are the main level at which bargaining takes place, although in Italy the situation looks like stabilizing at sectoral level too, thanks to the social pacts that have been concluded there.

Overview 1: Decentralization of collective bargaining structures in Europe

Country	Level of negotiation	Dominant level of negotiation	Recently adopted changes
Austria	N	N	N, S
Belgium	N, S, C	S	N + Gov., S, C
Denmark	N, S	S	stable
Germany	S nat., S reg., C	S reg.	S reg., C
Greece	C	C	stable
Finland	N + Gov.	N + Gov.	N, S
France	N, S, C	S, C	N + Gov., C
Ireland	–	–	–
Italy	N, S, C	C	S, C
Netherlands	S, C	S	S, C
Portugal	N + Gov., S, C	S	S, C
Spain	N, S	S	S, C
Sweden	N, S, C	N, S	S, C
United kingdom	S, C	C	stable

N: national, S: sector, C: company

Gov. = Government: legal on state in intervention, reg. = regional

Source: Jacobi, Pochet (1996)

Moreover, the coverage offered by collective agreements is indicative of the efficiency of the respective systems governing collective agreements. In the long run, successful coordination at European level will help stabilize national systems of collective agreements. Were European coordination to fail, the risk would be further erosion of the various national systems.

4.2. The European Industry Federations:

Key actors in any coordination-based policy

As with the European Trade Union Confederation, the development of the European Industry Federations (which until 1995 were referred to as European Industry Committees) is intimately linked with the European integration process. A first wave of initiatives took place in the late 1950s and early 1960s. The sectoral European trade union organizations set up at the time concerned those sectors of the economy where the EU (or rather, back then, the EEC) already had extensive regulatory powers. However, this applied in particular to the agricultural and transport sectors. In autumn 1999, 14 European Industry Federations were affiliated to the ETUC.⁵ Most European Industry Federations were born out of International Trade Secretariats and still have the character of regional organizations. Other European trade union organizations have established themselves as independent federations.

Substantial differences arise with respect to the number of member organizations and the affiliates they represent. For instance, the EPSU has more than 170 member organizations, whereas EFA has just 35. The reason for the considerable differences in the numbers of member organizations lies in the unions' very different national branch structures. For instance, national branch unions (like Great Britain's GMB) are often a member of two or more European Industry federations. This situation has major knock-on effects for the coordination of collective bargaining policy by those federations.

By analogy with the developments at national level, the European Industry Federations also appear to be about to reconfigure. Already back in 1996 there was a merger between the European Federation of Chemical General Workers' Unions (EFCG), founded in 1988, and the European miners' federation (FEBV) founded in 1991. As of 1 January 2000 at international level FIET, Communications International (CI), the International Graphical Federation and Media and Entertainment International merged to become Union Network International (UNI). Following this merger at international level the corresponding European Industry Federations affiliated to the ETUC, namely EURO-FIET,

5 On the subject of the relationship between the ETUC and the European Industry Federations you are referred to the interesting publication by Jon Erik Dolvik (1999), in particular.

the European Graphical Federation, Communications International (European Committee) and EURO-MEI joined forces to form UNI-Europe. In December 1999 the ETUC recognized UNI-Europe as a European Industry Federation. Accordingly, since 1 January 2000 there have been just 11 European Industry Federations. A further merger at European level is scheduled to take place this year as well. In principle the decision to merge the European Federation of Agricultural Workers' Unions with ECF-IUF was already taken years ago. This merger will reduce the number of European Industry Federations to 10, and the possibility of further mergers within the next few years cannot be ruled out.

If we leave aside financial and human resources to begin with, which are extremely modest anyway, then it is the way in which the internal structures of the European Industry Federations are organized that are vital for successful coordination.

The overview 1 shows that in autumn 1999 just four European Industry Federations had their own Collective Bargaining Committee. Apart from the European Metalworkers' Federation (EMF), which has always had its own Collective Bargaining Committee, the European Graphical Federation (1995), the European Mine, Chemical, and Energy Workers' Federation (1996) and the European Trade Union Federation Textiles, Clothing and Leather (1997) have only recently set up corresponding committees, whereas two other federations (European Federation of Building and Woodworkers and the European Federation of Public Service Unions) have set up working groups. In addition, the various European Industry Federations also have working groups which engage in regular exchanges of information on collective bargaining policy. However, summing up the overall situation, the European Industry Federations' internal organizational structures are insufficiently well developed to coordinate collective bargaining policy effectively. However, since early 1999 it would appear that efforts to build up corresponding structures to coordinate collective bargaining policy have clearly been stepped up. For instance, both the European Committee of Food, Catering and Allied Workers' Union within the IUF (ECF-IUF) and EURO-FIET have held conferences on collective bargaining policy within the past year. Other unions – including the European Federation of Building and Woodworkers – have adopted resolutions on the subject at their Congresses or General Assemblies with a view to tightening their grip on the way in which the coordination of the activities in question is organized. As the statement of principle on collective bargaining policy by the European building unions put it: "After several years of discussion, the European building workers' unions now want to take collective bargaining policy to a new level." (EFBWW 1999). To begin with, collective agreements that are concluded at the bilateral level are to be given the same durations and periods of notice, so that European objectives can be prepared for and implemen-

ted simultaneously.⁶ Meanwhile the EPSU has also intensified its discussion of the coordination of collective bargaining policy. Indeed, a survey commissioned by the EPSU highlighted both the need to coordinate collective bargaining policy within the monetary union and the importance of the federation's further development into a competence and coordination centre (Hoffmann, Jacobi 1999). At the EPSU Congress scheduled for May 2000 corresponding steps in this direction should be taken.

Overview 2: The European Industry Federations

<i>Name</i>	<i>Established in</i>	<i>Status</i>	<i>Collective bargaining structures</i>
European Transport Workers' Federation (ETF)	1958	EF	
European Federation of Agricultural Workers' Union (EFA)	1958	EF	A
European Federation of Building and Woodworkers (EFBWW)	1958	EF	S, WG
European Trade Union Federation: Textiles, Clothing and Leather (ETUF-TCL)	1964	EF	S, C (1997)
Communications International (European Committee) (CI)	1965	EC	
European Metalworkers' Federation (EMF)	1971	EF	S, C (1971)
European Regional Organisation of the International Federation of Commercial, Clerical, Professional and Technical employees (EURO-FIET)	1972	RO	
European Federation of Public Service Unions (EPSU)	1974	EF	S, WG
European Trade Union Committee for Education (ETUCE)	1975	EF	
European Committee of Food, Catering and Allied workers' Unions within the IUF (ECF-IUF)	1981	RO	
European Graphical Federation (EGF)	1985	RO	C (1995)
European Federation of Journalists (EFJ)	1988	RO	
European Entertainment Alliance (EEA – EURO-MEI)	1993	RO	
European Mine, Chemical and Energy Workers' Federation (EMCEF) (merger of EFCG (1988) and FEBV (1991))	1996	EF	S, C (1996)

*EC: European Committee • EF: European Federation • RO: Regional Organisation
A: agreement • C: committee • S: study • WG: working group*

Situation: April 1999

6 For details of the debate within the EFBWW see also: Baumann, Laux, Schnepf (1996)

What is more, activities undertaken by the European Trade Union Confederation over the last four years have clearly contributed to the European Industry Federations' intensification of their efforts to coordinate collective bargaining policy. For example, joint seminars have been held by the ETUC every year together with the European Industry Federations to exchange news and views about activities to do with collective bargaining policy. In addition, following a specific decision made at the 9th ETUC Congress in Helsinki a Committee for the Coordination of Collective Bargaining Policies was set up, the members of which are to be the respective member federations' responsible trade union secretaries. Of course, the initial aim of the committee will be to make the coordination of collective bargaining policy more self-evident than it already is. In the long term, though, the Committee for the Coordination of Collective Bargaining Policies will have to help the ETUC contribute towards establishing a certain degree of consistency in the collective bargaining policy conducted by unions in Europe.

4.3. Information and exchanging experience: a fundamental prerequisite for the coordination of collective bargaining policy

The basis for any form of collective bargaining policy coordination is a solid body of information detailing the fundamental structures for collective bargaining in Europe and information about the respective areas covered by it. A wide range of subjects has to be taken into account, merely in the area of wages and salaries, including hourly, weekly and monthly wages or uniform collective agreements on pay for blue- and white-collar workers, holiday pay and Christmas bonuses, asset formation, bonuses for overtime and work on public holidays, etc. In addition there is the highly varied domain of qualitative areas of coverage, including working time policy, health protection, continuing training, equal opportunities, and so on, not forgetting the existing differences as to whether collective bargaining or statutory arrangements take priority. The level at which collective agreements are concluded is of decisive importance. In most EU Member States the sectoral level remains crucially important, although the unions in Europe have for years been under pressure from the employers to decentralize their collective bargaining policy. For years now, the European Industry Federations have, in various ways, been collecting, analysing and exchanging information of relevance to collective bargaining policy. However, there are major problems regarding the comparability and current accuracy of these data. Most of the European Industry Federations have limited human and financial resources and are therefore unable to collect and process information at sectoral level on important developments of relevance to collective bargain-

ing policy systematically and on an ongoing basis. Some federations do have funds for external support and have conducted studies on the systems and basic structures of collective bargaining for individual branches of the area of the economy which they cover (Olsen, 1996; Schnepf, Laux, Baumann, 1997). However, these studies are mere snapshots offering a basic insight into the respective national situations as regards collective bargaining policy. Yet a continual stream of well-structured data is essential for effective coordination. One measure undertaken to meet the requirements in this connection was the launch of a European research project by the EMF, which has already yielded provisional results showing just how much work remains to be done before effective coordination is achieved (Bispinck, Schulte, 1999). The ETUF/TCL has opted for the different, more ambitious approach of building up a database on collective bargaining.

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WORKERS' PARTICIPATION: A CRUCIAL TOPIC FOR THE EU

I. THE STARTING POINT

The system of workers' participation in company's decision-making differ significantly in the Member States of the EU. Neither the institutional structure nor the intensity of participation are on a somehow similar level. Compared to the German system of workers' participation Austria and the Netherlands are relatively close whereas the Anglo-Saxon countries are far away from such a system.¹ For them institutionalised workers' participation looks as being almost incompatible with the traditional pattern of industrial relations. But even where institutionalised workers participation is established (as for example in France), it often remains on the level of information and consultation. Most countries do not know at all co-determination in a strict sense. Workers' participation in corporate boards is even more of a rarity than participation by works councils or similar bodies.

A lower level of institutionalised workers' participation in many countries does not necessarily mean that workers have less influence on management's decisions. A much broader analysis would be needed for such an evaluation. More extended possibilities to use instruments of industrial action, more active presence of trade unions in the undertaking as well as informal means of putting pressure on management should not be underestimated in this context. However, their effect always depends on the trade unions' actual strength. Therefore, they are relatively effective in the Scandinavian countries whereas in countries with an ever weaker trade union movement – as in the U.K. – they tend to become less and less relevant.

The most important difference between the Member States refers to the basic philosophy of industrial relations. In countries like Germany, Austria or the Netherlands as well as in the Scandinavian countries they are based on cooperation whereas in the Anglo-Saxon as well as in the southern European countries they are based on conflict. This difference has far-reaching consequences for the perception of system of workers' participation. Where the spirit of cooperation prevails, trade unions and workers are in

1 For a survey see M.BIAGI, *Forms of Employee Representation at the Workplace*, in R. BLANPAIN (ed), *Comparative Labour Law and Industrial Relations in Industrialized Market Economies* (6th ed, 1998), 341

principle prepared to share responsibility with management for decision-making whereas in a framework dominated by conflict and antagonism they insist on a strict separation of tasks and responsibilities. The different culture of industrial relations is deeply rooted in the tradition of the respective countries. It is the result of political, cultural and economic developments. In view of this heterogeneous situation it would – at least in a mid-term perspective – be totally unrealistic to shape the structure of workers' participation identically throughout the EU. It has to be stressed that institutional identity would by no means lead to functional identity. Too different are the framework conditions under which such institutions would operate. At best there is a chance to approximate the system in a functional sense. Thereby distortions of competition arising due to the existing differences could be eliminated. The more important reason for such an approximation, however, consists in the fact that the EU no longer is a mere market and economic community but on its way to a political union. If democratisation of the economy is understood to be a promoting and stabilising element for democracy in the society as a whole, workers throughout the EU should have a similar chance to influence decisions by which they are affected.

It, however, would not be sufficient to approximate the different systems. Whatever the shape of a national patterns of workers' participation might be: at least in principle their scope of application is limited to the national territory. If decisions are made by the headquarter of a transnationally operating undertaking or group of undertakings in another country the national system of workers' participation tends to become irrelevant. Therefore, it also is necessary to extend workers' participation beyond national borders.

II. WORKERS PARTICIPATION IN RESPECT OF CERTAIN SPECIFIC ISSUES AS A FIRST STEP

Workers participation in respect of certain specific issues is the strategy which first succeeded in promoting the approximation of workers' participation in the EU. It refers to specific topics: collective redundancies, transfer of undertakings as well as health and safety. Starting point for regulations in this area was the Commission's first Social Action Programme of 1974. In 1975 the Directive on the approximation of the laws of the Member States² relating to collective redundancies was passed and two years later the Directive on the safeguarding of employees' rights in the event of transfers of under-

2 OJ (1975), L 48

takings³, businesses or parts of businesses. Both Directives provide for information and consultation of workers' representatives according "to the law and practice" of the respective Member State. This also applies to the Framework Directive of 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work⁴. Thereby the employer not only is obliged to inform and consult workers' representatives but in addition has the duty to "balanced participation in accordance with national law and/or practice" (Art. 11 par. 1). What "balanced participation" in this context means remains to be rather obscure. There is, however, at least consensus in so far that it is to be interpreted as providing a higher degree of influence than mere information and consultation. It will be the European Court of Justice's task to clarify the meaning of this concept.

The approximation initiated by these Directives only succeeded to a very limited extent. The actors on the workers' side in the different countries are too different. In a country like Germany the works council equipped with a whole set of instruments to influence management's decision-making fulfils the task of workers' representative. In other countries there are much weaker bodies – as for example the *comité d'entreprise* in France – or no specific bodies at all. The latter was the case in the U.K. where shop stewards of trade unions were supposed to take over this role. In view of the weakening of the trade union movement they, however, existed to a lesser and lesser extent. Since in addition it was up to the employer to recognize or derecognize trade unions the European Court of Justice in two spectacular judgements⁵ of 1994 considered this situation to be incompatible with the requirements of the Directives on collective redundancies and transfer of undertakings. According the European Court of Justice the requirements of these Directives only are met if there is a guarantee that workers' representatives are available in cases of collective redundancies or transfer of undertakings. Accordingly the U.K. had to amend its law and provide for workers representatives in such circumstances: an almost revolutionary step in the British context. This example shows, that the effects of these Directives referring to certain specific issues should not be underestimated.

III. THE EUROPEAN WORKS COUNCIL

In addition to the approximation of systems of workers participation in regard to specific issues the EU has succeeded in extending workers' participation to the transna-

3 OJ (1977), L 61

4 OJ, (1989), L 183/1

5 Cases C-382/92 and C-383/92, *Commission v. United Kingdom*, ICR – ECJ (1994), 664

tional level. This happened on the one hand by amendments to the Directive on collective redundancies⁶ of 1992 and to the Directive on transfer of undertakings⁷ of 1998. These Directives now also apply to measures and decisions taken by headquarters of transnationally operating undertakings or groups of undertakings situated in another country. These amendments, however, are of only marginal relevance compared to the importance of the Directive of 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees⁸. This Directive on European Works Councils is the result of long-lasting and difficult negotiations by which one can learn very much on the chances and limits of EU regulations in this area. Therefore, it should be described here at least in a sketchy way⁹.

Those countries which already had well established systems of workers' participation took the initiative for the introduction of such a transnational pattern. They were frustrated by the limits of their respective national systems being confined within the national borders. The national systems became irrelevant if decisions were taken by the transnational headquarters abroad.

The first attempt to achieve such a regulation was the draft of a Directive on procedures for informing and consulting employees, the so-called Vredeling proposal¹⁰ of 1989, named after the then Commissioner of Social Affairs, the Dutchman Henk Vredeling. This draft was modified and presented in an amended¹¹ version in 1983. Both drafts were focusing on a decentralised system of workers' participation: there should be no new body on the level of the transnational headquarter but information and consultation of the already existing workers' representatives according to national law and practice. The idea was that the parent undertaking would inform the subsidiaries and the subsidiaries would inform and consult the workers' representatives. The model already used in the Directives referring to certain specific issues simply was transferred into these drafts. The respect for existing structures was supposed to increase the acceptability of the intended Directive.

The draft described in detail the subject matters for information and consultation as well as the respective procedures. At least once a year the management of the parent undertaking was to forward to the management of each subsidiary within the Com-

6 OJ (1992), L 245/3

7 OJ (1998), L 201/88

8 OJ (1994), L 254/64

9 For details see M.WEISS, Workers' Participation in the European Union, in P.DAVIES et alii, (ed.), European Community Labour Law – Principles et Perspectives (1996), 213 (224) -

10 OJ (1989), C 297/3

11 OJ (1983), C 217/3

munity information on the activities of the parent undertaking and its subsidiaries as a whole. Much more important than the communication of this general information was the special procedure to be followed if certain specific decisions were to be taken: closure or transfer of an establishment or major parts thereof; restriction of or substantial modifications to the activities of the undertaking; major modifications with regard to organization, working practices or production methods, including modifications resulting from the introduction of new technologies; introduction of long-term cooperation with other undertakings or the cessation of such cooperation; and, lastly, measures relating to workers' health and industrial safety. In these cases the management of the parent undertaking, via the management of the subsidiary affected, was required to provide precise information, including details of the grounds for the proposed decision, the legal as well as the economic and social consequences of such decisions for the employees concerned, and the measures planned in respect of such employees. It is important to underline that the workers' representatives were allowed thirty days to give their opinion: management could take its measures only afterwards.

This possibility to delay the decision-making process and the much too detailed provisions for the procedure of information and consultation led to a significant resistance in the employers' camp. Thus in 1986 the attempts to further promote the Vredeling proposal was given up. It was a first class funeral.

The community, however, succeeded in finding a way out of this dead end. This was mainly due to the efforts of the Commission's President Jacques Delors who did everything to organise a revival of the Community's social policy. Most important in this context is also the Community Charter of Fundamental Social Rights of Workers. Even if this Charter – signed in 1989 by all Member States except the U.K. – is only a legally non-binding declaration, its political weight should not be underestimated. In its section 17 it claims that "information, consultation and participation for workers must be developed ... especially in companies or groups of companies having establishments or companies in two or more Member States of the European Community". This push of legitimacy has made it possible to present in 1991 a new proposal for a Directive¹² In spite of the fact that this draft was presented only after consultation with the social partners it did not take the hurdle of unanimous voting in the Council. Only due to the possibility of qualified majority voting as established in the Maastricht Social Protocol (and now transferred to the Amsterdam Treaty) it became possible to finally pass the Directive in 1994 after many modifications of the original draft which were mainly necessary to overcome the employers' opposition.

12 OJ (1991), C 39/10

There are mainly two reasons for the fact that this opposition could be overcome and that the Directive could be passed. They are the result of the learning-process in dealing with the Vredeling proposal. First the Directive does no longer contain specific provisions on the content and the procedure of information and consultation. It rather establishes a procedure with an open end. Everything is left to the negotiating partners. Only in case of failure of such negotiations subsidiary requirements apply. From the perspective of the employers' side these subsidiary requirements are to be seen as a threat for the case of failure: they cannot escape the procedure of information and consultation. This threat of course promotes the success of negotiations. Secondly the Directive allows for voluntary agreements until a certain date. The leeway for these voluntary agreements is almost unlimited, in any case much bigger than under the regime of the Directive. This has led to a rapid increase of such voluntary agreements: from about 40 in 1994 to more than 400 in 1996¹³ The mere fact that these agreements were stimulated by the Directive already has to be seen as an enormous success.

The Directive does not focus on a homogeneous model of information and consultation. The change of paradigm from substantial regulation (as in the Vredeling proposal) to mere procedure gives the actors every possibility to activate their fantasy and to agree on a pattern fitting best to the respective structure of the undertaking or the group of undertaking. The models elaborated this way already have become a widely discussed subject of scholarly research¹⁴ It seems that thereby a very promising learning-process on effects of legal regulations can be initiated. The about 1500 European Works Councils formed under the Directive¹⁵ will provide a rich sample to illustrate the chances and problems of transnational workers' participation. The present discussion on an amendment to the Directive is already very much based on such empirical observations.

A further advantage of the Directive in comparison to the Vredeling proposal consists in the fact, that workers' representatives from the different Member States of the EU have to be informed at the same time on the headquarters' level which is especially important in cases of closure and/or transnational relocation. This simultaneous information and consultation tends to prevent any attempts to undermine the solidarity

13 For a good survey on these agreements see P. MARGINSON et alii, *Negotiating European Works Councils – An Analysis of Agreements under Article 13* (1998)

14 To just take the example of publications in Germany: W. LECHER et alii, *Die Konstituierung Europäischer Betriebsräte. Vom Informationsforum zum Akteur? Eine vergleichende Studie von acht Konzernen in Frankreich, Italien, Großbritannien und Deutschland* (1998); W. LECHER, *Auf dem Weg zu europäischen Arbeitsbeziehungen? Das Beispiel der Euro-Betriebsräte*, WSI-Mitteilungen (1998) 258; H. PLATZER / K.P. WEINER, *Europäische Betriebsräte – eine Konstitutionsanalyse. Zur Genese und Dynamik transnationaler Beziehungen*, Industrielle Beziehungen (1998), 388

15 See W. LECHER, WSI-Mitteilungen (note 14), 258

between the employees of the different Member States, even if this effect certainly cannot be totally eliminated.

IV. THE NEW INITIATIVES

Stimulated by the successful experience with the Directive on European Works Councils the EU has revitalized a project which was considered to be dead for ever: workers' participation in the boards of the European Company. The first attempt to introduce a European Company as an option available in addition to national models of company law dates back to 1970¹⁶. According to experts the European Company would lead to significant savings of costs, to increase efficiency and transparency. It no longer would be necessary to create a complicated structure of holding in order to overcome the problems arising from the differences of national company law¹⁷. In spite of these evident advantages the European Company so far did not succeed because of lack of consensus on workers' participation in company boards.

The first proposal of 1970 could not be successful for a very simple reason: ignoring the basic differences of industrial relations throughout the Community it tried to impose one and the same model (namely a mixture between Dutch and German model) to all other Member States. In the context of the development of the Single European Market the Commission in 1989 presented a new draft¹⁸ trying to draw the proper conclusions from the debate on the first proposal. It offered four alternatives as options to be chosen by the respective Member State fitting best in its overall framework. It, however, turned out that these alternatives still were much too rigid to find general acceptability. Therefore, it was pretty clear from the very beginning that this new attempt again would end as a failure. Inspired by the success of the Directive on European Works Councils the Commission established a group of experts¹⁹ which in 1997 presented its final report, the so called Davignon report named after the chairperson of this group. Basically the group of experts recommended the same concept which governs the Directive on European Works Councils: providing for a procedure and leaving practically everything to the negotiations of the negotiating actors; in case of failure of negotiations a safety net of subsidiary requirements. According to the sub-

16 OJ (1970) C/124

17 See K.HOPT, *Europäisches Gesellschaftsrecht – Krise und neue Anläufe*, Zeitschrift für internationales Privatrecht (1998), 96 (100)

18 OJ (1989) C/263

19 Expert Group on "European Systems of Worker Involvement (with regard to the European Company Statute and the other pending proposals)"

subsidiary requirements the workers should be represented by one fifth or at least two seats in the respective board. This proposal was transferred into a draft of a Directive²⁰ in the second semester of 1997. But soon it turned out that it became difficult to reach agreement on these subsidiary requirements. In spite of the fact that the European Company is not supposed to be available for the creation of a company but only for mergers, Member States with a higher amount of seats were not willing to accept such a low proportion of workers' representation. For them the danger that companies thereby might try to escape the scope of application of the national pattern seemed to be too high. Therefore, this draft mainly failed because of the German and Austrian opposition. Under the U.K.'s Presidency in the first semester of 1998 a compromise was developed in order to overcome this resistance. According to this new version the highest level of board representation of a company participating in a merger is decisive and to be guaranteed by the subsidiary requirements. If for example a German company would engage in such a merger, the German level of workers' representation would be transferred to the European Company if not a different pattern would come out as a result of negotiations. The disadvantage of this proposal, however, consists in the fact that there would be no workers' board representation whatsoever if in all merging companies such a scheme of participation does not exist. In my view this zero solution is too high a price to be paid as a trade-off for the guarantee of the pre-existing higher level. Thereby the intended regulation misses its goal: to introduce workers' participation in corporate boards - on whatever level - as an inescapable obligation if a different result is not achieved via negotiations. This perspective, however, was not the reason why the proposal did not take the hurdle of unanimous decision-making in the Council in December 1998. The failure was due to the Spanish opposition: Spain did not want the introduction of any obligatory pattern of workers' board representation whatsoever. The attempts of the German presidency to finally pass the Directive remained unsuccessful. The proposal is still pending and the debate on it remains in inner circles. Therefore, it presently is difficult to give any forecast.

The Directive on European Works Councils has encouraged the Commission to another, even more far-reaching step: instead of prescribing information and consultation only for certain specific issues the national systems of information and consultation are to be approximated in a comprehensive way. The possibility for the social partners to negotiate such an agreement between each other - initiated by the Maastricht Social protocol and now transferred to the Amsterdam Treaty - was not used: it failed due to the opposition of the employers' side. Nevertheless the Commission in November 1998

20 President's proposal 13179/97 SOC 421 SE 9

presented a respective draft for a Directive²¹. It again is shaped according to the pattern of the European Works Council Directive. Again the Commission leaves everything to negotiations and only in case of their failure subsidiary requirements apply. In the meantime it has become rather silent as far as this proposal is concerned. There still seems to be significant opposition. However, it should be reminded that this Directive – different from the proposal on workers' board representation in a European Company – only needs qualified majority voting. Again it is difficult to give a forecast. There is no doubt that the Directive in a number of Member States would strengthen the pattern of workers' participation in quite a few countries without forcing them to establish new institutional structures which might not fit in the respective overall framework. It is this flexibility focusing on negotiations which makes the proposal so attractive and which in the very end might lead to its success.

V. CONCLUSION

At least some optimism is justified when looking at the re-orientation of the Community's policy in the area of workers' participation. The heated debates on earlier proposals on workers' board representation in the European Company or on the Vredeling proposal turned out to be an important learning-process. Naive assumptions to impose the model of one or a few countries to all the others no longer are discussed. The same is true for regulations prescribing the Member States in detail what to do. Now the debate has become much more sophisticated. The way for the future is paved by the concept of the Directive on European Works Councils: to fix the functional goal of workers' participation, to define the actors for negotiations, to leave everything to these negotiations and to establish a safety net of subsidiary requirements. The function of these subsidiary requirements mainly is to be a threat for the employers' side in the negotiations and thereby to prevent the failure of such negotiations.

This new concept neither leads to uniformity nor to functional equality of the different models which are the result of negotiations. But it forces trade unions as well as employers and employers' associations everywhere in the Community to cope with the idea of workers' participation. This impressively can be demonstrated by studying the implementation of the Works Council Directive. The new concept is a challenge: antagonistic patterns of industrial relations have no choice but to be confronted with the

21 Proposal for a Council Directive establishing a general framework for informing and consulting employees in the European Community, OJ (1999) C 2/3

philosophy of cooperative systems. It thereby stimulates a debate on the future way of the EU, an inescapable choice between cooperation and antagonism. The more the Community succeeds in promoting regulations on workers' participation, the more it spreads and supports the idea of cooperation, participation and joint responsibility. It looks as if this will be in the future the common characteristic feature of industrial relations in the EU. Important steps in this direction are already made. Now it is important to further follow this path.

Wolfgang Hermann

Otto Jacobi

AMBASSADORS OF THE EUROPEAN CIVIL SOCIETY: PRACTICE AND FUTURE OF EUROPEAN WORKS COUNCILS

Many management boards of transnational companies consider European Works Councils (EWC) to be as superfluous as the proverbial 'Hole in the Head'. They think that the money could be spent better on achieving greater competitiveness, and that they waste time. The trade unions on the other hand see them as a milestone on the road to a pan-European participation culture. For them, the 12,000 members of European Works Councils are "Ambassadors of the European civil society".

Since 1994, European Works Councils have been set up in some 600 companies which are active transnationally. Enough experience has therefore been gained to be able to say that company fears about competitive disadvantages are unfounded, and that trade union expectations in terms of the dynamism of European Works Councils are somewhat optimistic. Below, we shall attempt to draw some interim conclusions and will outline the prospects for the future. The experience gained during the setting up and the operation of the EWC at Deutsche Bank Group represents an important foundation with empirical information.

1. THE EU DIRECTIVE

Attempts to establish European participation rights for employees in the form of information and consultation rights have been made repeatedly since the beginning of the 1970s. The fact that these attempts only succeeded in 1994 was due to two problems, namely (a) the level of integration which had been insufficient for a long period of time and (b) the emphasis on the initial strategy of harmonisation.

a) The basis for a truly common European economic area was only established with the Single European Act, in 1992, and with the 'Maastricht Treaty' enacted at the end of 1993. The latter contained irrevocable provisions for the introduction of the euro as a single currency. The consequence of European economic and monetary union was a wave of transnational company mergers which is continuing today. The fact

that a steadily increasing number of pan-European companies is weakening national participation rights motivated European legislators to respond to the demands from trade unions for European Works Councils.

- b) All previous attempts at using the German or Dutch co-determination structures as a reference model for the establishment of national and European participation rights for all member states of the EU have failed because of two impediments: On one hand, several countries rejected externally imposed conditions (with the approval of the trade unions) and, on the other hand, the uniform model was regarded as too rigid against the background of different national participation models. Only when attempts to interfere with national systems were discontinued, and when an optional model was offered in place of a harmonised standard solution did it become possible to attempt to provide for information and consultation rights of employees throughout the EU.

In September 1994, the EU Directive providing for the setting up of European Works Councils (94/45 EC) was finally adopted. It was enacted in the national legislation of the member states in the following years. The most important provisions of the Directive are outlined below:

- The Directive does not interfere national legislation.
- The Directive covers transnational companies which have more than 1000 employees in at least two EU countries.
- The European Works Councils exercise information and consultation rights in economic and social matters of groups, but only where they are of transnational character.
- The Directive provides for considerable latitude of action for the setting up, the responsibilities and the facilities of European Works Councils. For example, management and employee representatives are entitled to agree to waive the setting up of the European information and consultation body altogether. If they wish to set up an EWC, they need to negotiate and provide for the rights and resources of this body in an agreement.
- In the event of failure to agree, the employees may enforce the formation of an EWC against the will of the management. This is because the Directive provides a back-up solution, the so-called subsidiary requirements, which apply whenever the management rejects an application by the employees for the setting up of an EWC. The subsidiary requirements provide for information and consultation rights of the EWC and also specify that the company must bear the costs of its operation.

This Directive may be regarded as the most important innovation in European labour relations of the 1990s. It combines the principle of harmonisation in an intelligent man-

ner in the form of a minimum solution which can be enforced by the employees. It does so by using the principle of differentiation through adaptation through national and company-specific traditions and flexibility through elastic adaptation to changing company environments. In accordance with the concept of subsidiarity, the Directive relies on solutions negotiated by the participating parties who have great latitude of action and not on legally binding specific requirements as known by national legislation.

This is not consistent with the idea of neo-corporatist theoreticians, whose advocates (Streeck 1998) do not attach any dynamic development potential to the Directive. The Achilles heel of neo-corporatism is its less developed historical understanding of the European integration process. The high level of social organisation in the classical European nation-states cannot really be compared with the low level of social organisation in the EU as a whole, because Europe as a building is still in its construction stage. Its completion will still take some considerable time.

The Directive comes to its conclusions on the basis of the experience of the integration process which has now been going for forty years. This teaches us that transnational labour relations pre-suppose the creative networking of historically developed national social cultures with an European approach in the sense of controlled diversity.

2. EUROPEAN WORKS COUNCILS IN PRACTICE

2.1. The Dublin Study: The analysis of EWC-Agreements

The first step of the practical application of the Directive consists of a convention which needs to be negotiated between management and employee representatives. Since the adoption of the Directive in September 1994, the number of agreements signed has rapidly increased.

On instructions from the EU Commission and the Dublin-based "European Foundation for the Improvement of Living and Working Conditions", the texts of EWC conventions of 386 multinational companies have been analysed (Marginson et al. 1998). This research project included virtually all conventions which had been agreed by September 1996. The most important results of this study may be summarised as follows:

- Almost half of all conventions were agreed within multinational companies in Central and Northern Europe. This is a group of countries (Scandinavian countries, the Netherlands, Germany, Austria) which have established a highly advanced national participation system. Around one third of all conventions were signed with compa-

nies with an Anglo-Saxon, American or Asian home base. Some 20% of all agreements came from the Romanic part of Europe (Italy, Spain, France, Belgium).

- An analysis by industry has shown that some 85% of all conventions were agreed in multinational industrial groups (in particular metal, chemistry and food companies), and only 15% were agreed in multinational companies in the service sector.
- Where the rights of EWCs are concerned, the emphasis is quite clearly on (generally quite comprehensive) rights of information on economic matters such as mergers, investments, cut-backs, closures, collective redundancies, working methods and new technologies. Consultation rights and, above all, negotiation rights are mentioned in very few cases.
- Where the make-up of the EWCs is concerned, care has been taken to ensure that employees of all countries are represented in which the group has establishments. EWC members are appointed in accordance with the terms and conditions of the national transposition laws.
- Virtually 90% of all conventions provide for at least one ordinary meeting of the EWC with the management. However, in 80% of all cases, it is possible to call for an extraordinary meeting.
- As a rule (85%) employee representatives are entitled to hold discussions (preparatory meetings) before meetings with the management, but only in some 20% of all cases are they also entitled to hold a follow-up meeting.
- Where joint meetings with the management are concerned, the preparation, chairmanship, agenda, and minuting are mostly decided by a joint process between the parties.
- In more than 60% of all cases, the employee representatives of the EWC are entitled to form a select committee as a steering group.

As a general result of the analysis of the EWC agreements, it can be stated that the terms and conditions faithfully follow the terms and conditions in the subsidiary requirements. This applies without any exception to multinationals in central and northern European countries. Although these countries may have highly developed participation systems, the multinationals have not applied them to EWCs.

2.2. Research projects by the Hans-Böckler Foundation.

The actual practice of the EWCs may deviate from the agreed convention text. The agreed convention may be the basic statute, but only practical experience will provide information about the dynamic development of EWCs. It is therefore intended to present the most important results of three studies performed on the actual work of EWCs. These studies were performed by a group of researchers (Lecher et al. 1998; Lecher et

al. 1999) for the Hans-Böckler-Foundation. The analysis included 38 multinationals (including eleven German multinationals) from six sectors of industry (metalworking industry, chemical industry, food, construction industry, banking and insurance).

2.2.1 Fields of interaction

The starting point for the analysis by the researchers consisted of four interactive fields which cover every EWC. The object is to determine the EWC internal structures and the relationships between the EWCs on one hand and the management, the representatives of national interest and the trade unions on the other. In a further step, comprehensive empirical material was collected with the objective of evolving an empirically based typology of the EWC.

The interactive field EWC-internal involves communications and working structures which an EWC has set up with the objective of ensuring that the organisation will function and has the necessary cohesion. The findings clearly indicate that in many cases, early information gaps and suspicion have been replaced by a high level of mutual trust of EWC members. Where a select committee has been established and uses existing resources for intensive information interchange, we can speak of a trend to professionalisation of the EWC work.

The interactive field EWC – management largely depends on whether the management provides group-relevant information about the economic position and the strategic direction in a comprehensive form, on a regular basis, in good time and in writing. The empirical documentation made available clearly illustrates that the information level has improved throughout. This applies in particular to EWC members in countries in which national legislation does not contain any requirement or only a limited requirement to provide information. It is also important whether consultations or even negotiations take place between the EWC and the management. Another aspect of interest is, whether the management regards the EWC as a vehicle for spreading the company philosophy transnationally, and whether it intends to improve the internal cohesion of management personnel by including high level managers working in foreign branches.

The interactive field EWC – national level deals with the degree of networking between the EWC members and the national representatives of the workforces. Based on empirical documents available, there are still some significant gaps here.

The interactive field EWC – Trade Union measures the degree of mutual acceptance, reports the level of information exchange, and consultancy services, agreements on mutual interests and political co-ordination. The findings frequently confirm formal networking, but more extensive and meaningful organisational links are rare.

2.2.2 EWC types

On the basis of the copious material used in its case studies, the Hans-Böckler-Foundation's group of researchers has consolidated its findings on four types of EWC.

- a) the symbolic EWC
- b) the EWC as a service provider
- c) the project-driven EWC
- d) the participation-driven EWC.

These four types are evidence of the variation between EWCs. The typology might also be considered as a continuum in the sense that the EWCs are moving from a lower level to a higher level of activity and action. However, this kind of progress can by no means be regarded as a reliable process. Primarily, it affects the development potential of the EWC. Many EWCs will rise to the top, but it is likely that others will slip back again, or will remain in a state of inertia at a lower level. In the course of the short life of all the EWCs so far, it is necessary to assume that they are still in a search and orientation phase, and that the significance of the EWC for the European social model will only become clear after a prolonged consolidation process.

The *symbolic EWC*; approximately half of the investigated multinationals fall into this category. This EWC is characterised by a poor development in all fields of interaction. The low frequency of meetings is a notable feature. Usually this EWC meets only once a year, and the preparation is inadequate. The management uses the meetings with the EWC primarily in order to present its own ideas. The symbolic EWC is passive, isolated and, at best, of limited use for the employees.

The *EWC as a service provider* sees itself as an information turntable. Its internal structures are designed to obtain useful information about the economic situation and the strategy of the group and to make this information available to the national representatives of the workforces. For this reason, it takes good care to ensure that the management meets its information obligations. This EWC type generates European added value in terms of information. Some 25% of the companies covered should be attributed to the model of the EWC as a service organisation.

The *project-driven EWC* has set up good communications, working and decision structures and has a select committee that functions as an organising centre. This internal structure enables it to carry out projects of its own or projects agreed with the management. Examples are the setting up of its own information system, a database, the collection of details of working conditions for comparison purposes, and of working times at the various company locations, collection of information on health and safety at work, and on training and further development programmes. The project-driven EWC has long term objectives which includes the development of alternatives to the

management-owned group strategy. The European value added of the EWC as a service organisation, for which some 15% should be attributed, lies in institutional strengthening through action-driven structures.

The *participation-driven EWC* uses stable internal structures which are specifically designed to make it possible to participate in the strategic decision process of the group. This applies in particular to restructuring measures and all associated employment policy problems. The select committee takes on a strategic leadership role within the EWC and works at a high level of competence and professionalism. The participation-driven EWC wants to be recognised as a negotiation partner who is instrumental in the control of the relationships between the social partners in the group. Suitable ways of entry are negotiations about subjects where the group management and EWC have common interests. Examples of this are the setting up of employee pension funds, group-specific implementation of labour related EU Directives (e.g. the VDU Directive), or equitable social arrangements, when facilities have to be closed. The participation-driven EWC is aware that it can achieve its long term objectives better, if it has closer links with the national representatives of the workforces and trade unions. This kind of EWC performs a pilot or pioneering function. The participation-driven EWC generates European value added through its attention to political interests, and some 20% of the cases investigated belong to this category.

	Field of action: EWC intern	Field of action: EWC-management	Field of action: EWC-national representatives of employees	Field of action: EWC-trade unions
Symbolic EWC	Deficient structures	Deficient information position	Deficient integration	Deficient networking
Service EWC	Information turntable	Satisfactory information position	Information exchange	Underdeveloped networking
Project-driven EWC	Good working structures, organisational centres; own projects	Good information position; joint projects	Good information exchange	Satisfactory networking
Participation-driven EWC	Stable working structures; strategic leadership centre	Very good information position; consultation; negotiation	Close interaction	Good networking Functioning co-operation

3. THE EWC IN ACTION: CASE STUDY – DEUTSCHE BANK GROUP

Since its constitution in Spring 1997, the European Works Council of Deutsche Bank Group (EWC/DB) has been working continuously and with increasing effectiveness. This is a development which is by no means a natural one if it is compared with that of other EWCs. Below, we will describe the development of the EWC/DB, together with an illustration of problems and obstacles and the prospects for the future. On one hand, the problems associated with the setting-up of a completely new institution will be discussed, and on the other, future-defining aspects of transnational representation organisations of employees will be considered. Before this discussion, some facts and figures will be given to indicate the internationalisation of Deutsche Bank Group.

3.1 Deutsche Bank as a global player

Deutsche Bank is the only German clearing bank which has undergone a strategic international alignment process. With a turnover of 834 billion Euro it is undoubtedly Europe's top bank. This policy of strategic European and then international alignment has been pursued by Deutsche Bank since the middle of the 1970s through extension of the international branch network and, to an increasing extent more recently, through the acquisition of foreign banks. Direct acquisition in Spain, Italy, the Netherlands, Austria and Great Britain have consolidated this European alignment. With the acquisition of Bankers Trust (1999), the bank is well represented on the American market. As early as 1989, the bank adopted a leading international role in the field of investment banking with the acquisition of Morgan Grenfell (Great Britain). The international group structure now has such a broad base, that Deutsche Bank Group is now firmly established as a universal provider of financial services. With the pending merger, Deutsche bank will achieve a market capitalisation of 80 billion Euro which will make it the leading competitor for other institutions who are active world-wide.

The size of the bank is reflected in the number of its employees. At present, after integration of Bankers Trust, this number is 91,000. Employment within Germany is on the decline, whereas it is growing overseas, because of the acquisitions. This is a trend which has been continuing for a number of years. It is a clear indication of internationalisation for the workforce of Deutsche Bank Group. If the development of the percentage of employees abroad is considered, then this clearly reflects the expansion process of Deutsche Bank Group through internationalisation. With 7% in 1984, the bank reached 31% as early as mid 1996, and, after integration of Bankers Trust, it has 44.8% foreign employees. Given that Deutsche Bank has already announced further acquisitions in Europe and America, the share of foreign employees will continue to increase.

The development of the group into a multinational financial services provider makes the development of human resources increasingly significant. In an international group of this kind with increasingly complex business areas and product ranges, the requirement in terms of specialist qualification, communication and inter-cultural ability, flexibility and adaptability of the employees become ever more important. These requirements can only be achieved within the scope of a company culture based on partnership. Internationalisation of the labour relations is an essential part of this process, and the EWC/DB is an important element in this development.

3.2 Establishment, constitution and rights of the EWC/DB.

The EWC/DB is based on a voluntary agreement pursuant to Article 13 of the EU Directive. Like many of the other voluntary agreements, this agreement was negotiated only recently in the few months before the enactment of the Directive in German law. For a very long time, Deutsche Bank resisted the demands of employee representatives and trade unions. From that point of view, it is one of the large number of companies who realised only quite late that the legal procedure applicable since 22nd September 1996 is associated with more imponderables and reduced ability to influence the design. Following a very intense negotiation process, the agreement on the setting up of an EWC for Deutsche Bank Group was signed on 10th September 1996. It was the first agreement by a German clearing bank.

Were we to interpret this action of Deutsche Bank Group, one cannot help thinking that the bank may be ready to integrate participation elements in the company culture, but that it does not wish to extend this participation in the direction of institutionalised participation. The classical conflict between capital and labour appears to be repeating itself at the newly created European level. The company culture which is in the process of modernisation is conflicting with the participation culture which the trade unions and the employee representatives are trying to achieve. This interpretation in turn is reflected in the dynamism of the further development of the policy and strategic activity of the EWC/DB.

The EWC/DB differs from the majority of existing agreements in this respect, because it is made up solely of employee representatives. The design therefore follows the German Works Council model. According to the agreement, it originally consisted of 19 members; today it has grown to 23 members. It is a relatively small organisation, but one which is very effective. Apart from Germany which provides 9 delegates, countries with more than 1000 employees are represented with 2 delegates (UK, Italy, Spain, Belgium). All other countries have one delegate (France, Luxembourg, The Netherlands, Austria, Portugal, Ireland). One drawback of the agreement is that it is purely confined

to the EU territory. This excludes Switzerland and all Central and Eastern European Countries in which Deutsche Bank Group is strongly expanding. This also applies to the USA (Bankers Trust).

Where its internal structure is concerned, the EWC/DB has formed an Executive Committee consisting of 5 members under the terms of the agreement. This meets more frequently between the EWC plenary meetings which take place once or twice a year. On the one hand, the work of this committee involves the preparation of the main meetings and the work required after such meetings, and on the other, the holding of discussions and negotiations with the group management. The agreement also contains a general clause which provides for the payment of costs. The committee has been provided with appropriate office resources by the bank. Representatives of the trade unions regularly participate in the EWC meetings and the meetings of the Executive Committee. Where this is required and in connection with certain subjects, experts may also be invited under certain circumstances-

The agreed participation rights mean that the EWC must be informed without delay if the company intends to adopt measures which have significant effects on the group employees. This information must be provided in good time, so that proposals by the EWC can be taken into consideration when decisions are made by the company. The right to information and the right to be heard not only relate to the economic, financial and personal situation in the event of fundamental changes in the structure of Deutsche Bank Group: any investment of great significance, mergers, disposals, closures and relocation of companies or parts of the company, personnel policy and development, questions of equal opportunities, deployment of new technology and questions of environmental protection and safety at work are included as well.

We can say that the agreement itself and its practical implementation meet a high standard. However, the 3 years of practical experience have already shown that the organisation of a transnational body representing the employees in a financial services grouping which is undergoing rapid development has to battle through significant problems and has to overcome serious obstacles. As will be explained later, these are not just attributable to resistance by the employers.

3.3 Selected practical problems

3.3.1 Secondment problems, Group Management and National Management

Even when the EWC/DB was first constituted, it became clear that there were group subsidiaries in some countries which did not have any employee representatives. Initially three (and temporarily four) countries were absent from the EWC round. One

country sent a representative who was not democratically elected. This was a problem which no-one had expected. For this reason, contacts were established between German trade union representatives and the trade unions in the individual countries concerned; this was not always an easy process because of the different trade union structures and traditions. Also, on the initiative of the EWC and its Executive Committee, the Group Management was asked to lean on individual national managements concerned to hold direct elections of delegates. As a result, the Group Management (human resources) hesitantly took the initiative. In three cases, the Executive Committee directly intervened in the subsidiary by organising visits to the countries. In this way, the need for an election was impressed on the national managements concerned. With the support of the group management, satisfactory solutions were achieved in three cases in this manner. Currently, only representatives from Great Britain are absent; it must be assumed that the management is continuing to resist all initiatives to this day.

The secondment problems described illustrate that there are a number of problems and practical needs. Without such an organising centre which was small and free to act, these problems could not have been solved. In a final analysis, this committee was the motor which overcame the initial hesitation of the Group Management and finally all obstacles locally. Contacts with the national trade unions concerned proved beneficial and useful, even if the benefit was variable, because of differences in the industrial relations system.

In summary, it can be said here that a functioning EWC needs an active, co-ordinating Committee which develops strategies and can act in every case. The secondment policy illustrates that Group Management and national managements do not always respond in a similar way. Evidently there are diverging interests at times, and it is not always possible to identify the more reticent parts of the management. Finally, it has become apparent that development and learning processes designed to produce a new, European scene must be worked on and rehearsed – by all those involved.

The establishment of an EWC also creates a new situation for the national management concerned in each case. Experience by foreign members of the EWC/DB has shown that there are significant differences between the information they have and the information given to national managements. The former, because of their membership of the EWC, are informed very early on proposed measures by the Group Management directly, and for this reason, their level of information is frequently better than that of national management. This leads to friction and occasionally to suspicion by national management, because there is always a suggestion that some information was deliberately withheld. Here it is necessary for the group to develop the Europeanisation of the reporting procedures in the area of human resources.

3.3.2 Trade unions and the work of the EWC

Although the EU Directive does not specifically include the trade unions as participating organisations, the Deutsche Angestellten Gewerkschaft (DAG) paid a significant organising role both during the negotiations of the agreement and the subsequent practical work of the EWC/DB. Even before the beginning of the negotiation process, the DAG was able to resort to contacts with the Italian trade unions (CGIL/FISAC) and the Spanish trade unions (CC.OO/Comfia). Today, both trade unions are represented on the Executive Committee. Cooperation with the trade unions relates to coordination of work with the national trade unions concerned, the development of concepts and the strategic design of the EWC/DB policy. The trade unions were therefore involved significantly in bringing about a common standpoint of the EWC/DB and the Group (see 3.4.) about security of employment when implementing new structures within the Group.

For the future, the present practice in the EWC/DB case indicates two requirements. On the one hand, a more intensive development of horizontal labour relations between trade unions in multinational companies is required. To improve the latitude of action at European level, it is necessary to overcome barriers created by the different trade union structures and traditions in the countries concerned. To achieve this, the trade unions must change their priorities at national level and aim at Europeanisation. This also implies the provision of appropriate resources. On the other hand, the work of the EWC can become an area of conflict between the EWC and the trade unions. For example, at the time of the introduction of the "Target" payment system of the European Central Bank, there was a discussion within the EWC/DB about the necessary changes in the working hours of the subsidiaries and about the question whether the EWC/DB should and could try to achieve uniform arrangements in the entire Group. The reason was that uniform arrangements for the Group would naturally interfere with national collective agreements. The firmer the establishment of EWCs, the greater the structural conflict between the EWCs of multinationals and national trade unions which can only be solved, if there is better coordination and cooperation between all parties. At the moment it is not possible to see how arrangements within a multinational company can be harmonised with relevant national agreements and usage.

3.3.3 Information requirements and information barriers:

Because the EWC is an organisation at European level, it is of necessity somewhat remote from the employees at times. This also applies to the EWC/DB. In order to overcome this remoteness, the EWC needs to inform the employees of its work. Two ways are conceivable and practical for this purpose. On one hand, the EWC representatives

might inform the individual workforces directly. This approach was adopted within the EWC/DB by the representatives from Spain and Italy. This level of feedback has the advantage that it does the work of information rapidly, and at an appropriate level consistent with national circumstances. Furthermore, there is the possibility of central information by the EWC itself. This route is more elaborate, since first of all, the Executive Committee needs to agree on an appropriate text; this text then needs to be translated into the languages concerned, after which the information must be distributed. The EWC/DB has now prepared a first information circular which will appear in the whole of the Group in due course and will be integrated into the regular house journal which is published in all countries. This information circular provides the workforce with the “common standpoint” (see 3.4.) previously mentioned together with details of the members of the EWC/DB and contact addresses. The latter in particular was considered important by the EWC, because it wanted to make itself known and available as a contact.

Where this information work or the general exchange of documents, drafts and other important texts are concerned, it can be said that the language barriers are significant. Not only do they lead to obstacles in direct communication, but also to problems with the interpretation of contract texts. In negotiation processes, all text variants need to be translated forwards and backwards to all those concerned, between meetings. To organise this process at a European level is very expensive and very time consuming. There seems to be no obvious solution, unless an official business language is agreed for the EWC. This in turn would cause problems, since the delegation of members of the EWC is by democratic election and because a knowledge of language cannot be imposed as condition for such an election.

3.3.4 From an information body to an active organisation

In accordance with the design of the EU Directive, EWCs are information organisations who must be informed on agreed circumstances by the company management. Many EWCs confine themselves to this passive role as defined in the Directive. This approach is also reflected in many agreements – including in the EWC/DB. Only a few agreements provide for negotiation rights of the EWC. In practice it is therefore a matter of interpretation of the agreement and how the EWC sees its role.

Right from the beginning, the EWC/DB complained that it did not just want a role as an information turntable, but also wanted participation rights. The reason was that it saw itself as an instrument representing the entire European and international workforce. The starting point for these deliberations were concrete plans and projects at the bank which made it clear that there was a need for transnational coordination of

employee interests. For example, in 1998/99, the bank had a plan to create a central unit which was supposed to handle all European payment transactions. The EWC/DB immediately asked the question of its location: where was the new unit to be set up; how many jobs would be at risk elsewhere, and what could be done for job safety there? Was it permissible to compensate for threatened job losses in country A by setting up new structures, and what in turn would this mean for countries B to X? In the end, the bank abandoned its plans so that the problem did not need to be “solved” within the EWC/DB. However, the apparent problems made all members of the EWC more aware of such constellations and finally led to an initiative to try to reach an agreement on such matters.

Basically, it has become apparent that comprehensive, detailed information about group strategies and their implementation is of great importance for employee representatives in individual countries. Frequently, there is an information gradient between the parent company and foreign subsidiaries. In these terms, the EWC bridges a significant gap between the employee representatives of these foreign subsidiaries. Vis-à-vis the EWC/DB, Deutsche Bank Group practises a very open policy of information. If there is a need, or if there are enquiries, comprehensive, accurate numbers are supplied, right down to a breakdown for individual countries. In this way, the national EWC representatives could clearly see the extent to which they would be affected by measures adopted. For example, in 1999, the bank created the “European Transaction Bank” (ETB) by hiving off certain divisions. The ETB essentially deals with transactions, payments and the management of securities and offers these services to external customers. The group management provided comprehensive, regular information about these plans, possible variants and the changes resulting from the implementation process. As already mentioned, the effect was that some foreign members of the EWC were better informed than the bank’s own national management.

3.4 “Joint position: new structures, job security and employability”:

The number of projects designed to reconstruct the Group and align it to such European and international financial markets has made the EWC/DB aware that there is a need for new design. After a year of negotiations which were not always easy, the “common position” about security of employment was signed in Spring 1999. The negotiations were conducted by the Executive Committee of the EWC with expert assistance from the DAG trade union. This negotiation process also confirmed the need for a small, flexibly organised group to bring successful negotiations to a successful conclusion in a reasonable period of time under the relatively difficult working conditions in

an EWC. This function was managed by the Executive Committee in an exemplary manner. Such a structure therefore appears to be of great importance for the proper working of an EWC and implementation of its policy.

- The long period of negotiation is due to the fact that both sides were treading new ground. The group voluntarily accepted arrangements which clearly go beyond the requirements of the EU Directive. Against the background of the political discussion in the employer's camp, this is a very important step. However, as a modern approach in personnel policy, it is readily explained.
- The object of establishing a "common standpoint" is the creation of European rules for dealing with the consequences of reconstruction processes for the workforce. On one hand, this concerns the general group standards, and on the other, it leads to the formulation of guidelines which prevent people being disadvantaged and which lay down social standards when implementing personnel measures.
- Within the scope of an implementation dialogue, the bank undertakes to negotiate with the EWC in the areas of security of employment, qualification, employability and security of employment for the strategic allocation of resources:
- "The bank will continue its dialogue on these issues with the ESC (European Staff Council). This dialogue will include an exchange of ideas on how to promote job security and employability. These guidelines will be converted into modules of equal rank. Modules within the framework of this dialogue are:
 - ensuring job security by means of HR policy tools which are used when staff cuts are unavoidable. Apart from the natural wastage, these can include measures which as various forms of early retirement, shorter working hours, more flexible working hours, financial compensation for losing one's job etc.:
 - training aimed at securing further employment within Deutsche Bank Group, Opportunities for further qualification need to be identified and realised in the bank. Job offers and training facilities must be accessible to all DB employees world-wide:
 - employability aimed at improving staff members' employment prospects will be enhanced by the availability of training facilities and advice throughout DB Group:
 - job security and the use of local expertise for new business areas will be considered when strategic and organisational decisions are taken."

The adoption of this "common position" is an important, innovative step by EWC/DB and Deutsche Bank Group on the road to the development of European labour relations. For the first time in the financial services sector, an agreement of this kind has been entered into at European level.

With this agreement, the EWC has become an active partner involved in the design of labour relations throughout Europe and the entire Group. Many EWCs work purely as information bodies within the meaning of the EC Directive, but here, an active negotiation process has started. As a consequence of the “common standpoint”, discussions are now being held on the further development of individual modules. This process may therefore be the beginning of a strategic partnership within the framework of a new European culture of social participation throughout the company.

In this way, the bank recognises the EWC as a legitimate instrument representing the European workforce. However, in the view of the EWC, one decisive step is still missing for purely international representation of the workforce: the inclusion of all parts of the company worldwide. At the present moment, the EWC/DB has started a new initiative concerning the Group's subsidiaries in Central and Eastern Europe, because in these countries, development has speeded up enormously. Notwithstanding this initiative, the EWC, through the agreed negotiation options, is developing into a strategic management structure which represents the common interests of a multinational workforce and which formulates and represents common employment interests in consideration of the Group policy.

Despite the major changes in the Group worldwide and despite the speed with which these developments are taking place, significant effects on the employment of the bank must be expected. This makes it all the more important that further opportunities for action at European and international level are created in addition to the important work by employee representatives at national level. Interaction between the national and European/international organisations could provide strategic advantages for both and might achieve a transnational balance of interests. Development of intercultural relationships between the employees of the different countries, their representatives and the trade unions concerned are essential pre-conditions and should be the result of such attempts. In this way, Europe would move closer together at company level and that which “belongs together will grow together”.

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THE GERMAN UNION MOVEMENT IN STRUCTURAL TRANSITION: DEFENSIVE ADJUSTMENT OR SETTING A NEW AGENDA?

Throughout the 1990s calls for reform of German trade union structure came from far and wide. From within, Hermann Rappe, the then President of *Industriegewerkschaft Chemie-Papier-Keramik* (IG CPK-Chemical Workers' Union), advocated the formation by mergers of a number of conglomerate unions of sufficient, yet roughly equal, size to ensure the delivery of a wider range of services to members (Rappe 1992). Central to Rappe's approach was the limited extension of union recruitment bases to incorporate contiguous industries and an assessment that small unions were no longer viable as a means to provide services to members. A competing programme of reform was advocated from within a group of public sector unions. Instead of mergers, this programme was based on the establishment of federations of unions, within which each union could maintain its independence and share services. This programme owed much to the formation of cartels of unions, which characterised developments in Nordic countries. It was also supported from within the *Deutsche Gewerkschaftsbund* (DGB-German Trade Union Confederation), as the role of the DGB was secure as a provider of services to affiliated unions. From outside of the trade union movement, the research institute of the *Bundesvereinigung der Deutschen Arbeitgeberverbände* (BDA-Confederation of German Employers' Associations) also joined the fray and recommended restructuring around seven multi-industry unions, each of which should represent contiguous trades or industries (Niederhoff and Wilke 1991).

This chapter examines why these calls for reform were made, and charts their outcome in terms of the German trade union merger process. It argues that defensive adjustments to adverse membership and financial developments, and the mis-match between union organisation and industrial structure were the primary reasons for merger activity. The chapter locates the merger process in Germany within that underway in other countries. This comparison demonstrates that although the form of the merger process differs from country to country, dependant on the initial features of trade union structure, the factors driving the merger process and the objectives trade unionists wish to secure from it are very similar. Two implications arising from the merger process for the future development of German trade unionism are also assessed: the future of

the DGB, and the possibilities for extending recruitment, participation and organisation into hitherto unorganised sectors of the economy by means of post-merger unions. We argue that if the merger process is to facilitate the extension of union organisation, more wide-ranging internal reforms are necessary.

This chapter addresses these issues in five sections. The brief first section identifies the characteristics of union structure between 1949 and 1989. The second section charts the merger process among German trade unions, while the third section isolates the factors that explain the merger process. The fourth section assesses German merger activity in the context of mergers in other countries. The final section examines the implications of the merger process in terms of inter-union relations and prospects for recruitment and participation.

1. FEATURES OF GERMAN TRADE UNION STRUCTURE

Between 1949 and 1989 the structure of the German trade union movement was a model of stability. The formation of the DGB in 1949 with sixteen affiliated unions laid down the basic structure. The only significant change to this initial structure was the affiliation of the *Gewerkschaft der Polizei* (GdP-Union for Police Officers) in 1977-78. The seventeen unions affiliated to the DGB from 1978 are usually characterised as industrial unions, consistent with the principle of organisation initially adopted by the DGB (see, for example, Berghahn and Karsten 1987). This characterisation should be qualified, however, as affiliated unions maintain a wide range of recruitment bases. The GdP and the *Gewerkschaft Erziehung und Wissenschaft* (GEW-Education and Science Union) are essentially occupational unions, which make little attempt to recruit support and ancillary workers in policing and education. Similarly, *Gewerkschaft Öffentliche Dienste, Transport und Verkehr* (ÖTV-Public Services and Transport Union) organises on a sectoral basis, rather than within a single industry. A further variant is represented by the *Deutsche Postgewerkschaft* (DPG-Postal Workers' Union) and the *Gewerkschaft der Eisenbahner Deutschlands* (GdED-Railway Workers' Union) which are, in practice, company unions. All unions affiliated to the DGB, however, subscribe to the principle of 'one plant one union', the outcome of which is that disputes between unions for members are usually conducted in terms of gaining access to sites rather than within the plant. This principle is also contravened, however, as the occupational unions do not organise ancillary workers to policing and teaching, such as caretakers.

The *Deutsche Angestellte-Gewerkschaft* (DAG-Union of Salaried Employees) and the *Deutsche Beamtenbund* (DBB-Union of Civil Servants) remain apart from the DGB. The

DAG organises white-collar workers across a range of industries¹ whereas the DBB organises civil servants. More white-collar workers and civil servants are organised by DGB-affiliated unions than by either the DAG or the DBB. Attempts by the DAG to affiliate to the DGB in 1949 and during the early 1970s were rejected on the grounds that it operated in contravention of the principle of industrial unionism.

Christian (primarily catholic) unions affiliate to the *Christlicher Gewerkschaftsbund Deutschlands* (CGB-Christian Trade Union Confederation). Compared to the DGB, this is a small confederation (303,087 members in 1998) and does not figure in the examination that follows. A relatively large number of independent professional associations also exist, with the object of furthering the interests of specific professions. These associations do not claim trade union status, although they have been involved in trade union restructuring.

Since 1989 this structure has been profoundly reformed. If current proposals are enacted, it seems likely that the number of unions affiliated to the DGB will fall from 17 in 1988 to 8 by 2002 and the DAG will become part of a trade union affiliated to the DGB. Trade union mergers have also led, in practice, to a further movement away from the principle of industrial organisation.

2. CHARTING THE PATTERN OF MERGER ACTIVITY

This section charts the merger process since 1989. It demonstrates that mergers have not followed any single specific industrial or political 'logic', whereby mergers involve only unions that organise contiguous industries or advocate a similar political programme. Instead, a wide range of combination is in evidence, as unions adjust to changing circumstances and attempt to secure or retain political influence. The merger process is 'mapped' in Figure 1.

The period of stability in German trade union structure was broken by the merger in 1989 which resulted in the formation of *Industriegewerkschaft Medien* (IG Medien). The DGB-affiliated unions involved in this formation were the craft-oriented *Industriegewerkschaft Druck und Papier* (DRUPA – Printing and Paper Workers) and *Gewerkschaft Kunst* (GK – Artists' Union). Since the mid-1970s DRUPA had adopted a militant stance against employers. This was marked by large-scale strikes from 1976 onwards, initially concerning demarcation issues between printers and journalists in the operation of

1 The DAG claims members among the following occupations and industries: managers, commercial employees, technicians, mining, engineering, banking and insurance, public services, and media.

new technology, and latterly in pursuit of the 35-hour working week. The cost to the union of these strikes, coupled to the concurrent membership decline, resulted in a parlous financial position. At the time of the merger the GK was the smallest of the DGB affiliates, with less than 30,000 members, and was struggling to support this membership. The merger was presented as furthering the principle of industrial unionism as it unified contiguous trades. This position was strengthened by the involvement in the merger of several smaller associations, which were not affiliated to the DGB. Prominent among these were the *Deutsche Journalisten Union* (DJU-German Journalists' Union), *Verband der Schriftsteller* (VS-Writers' Association) and the *Rundfunk-Fernseh-Film Union* (RFFU-Radio, Television and Film Union). These organisations maintained loose connections with DRUPA or GK before the merger. Their involvement in the merger thus formalised such arrangements and brought these organisations within the constitutional authority of the new union.² However, the *Deutscher Journalisten Verband* (DJV-German Journalists' Association), another organisation that was not affiliated to the DGB, remained independent of IG Medien, thus preventing the unification of journalists' organisations.

Three strands of the merger process after 1989 involve the consolidation of union organisation around the three largest private sector unions affiliated to the DGB: namely, *Industriegewerkschaft Chemie-Papier-Keramik* (IG CPK-Chemical Workers' Union), *Industriegewerkschaft Bau-Steine-Erden* (IG BSE-Construction Workers) and *Industriegewerkschaft Metall* (IG Metall). A fourth strand of the merger process involves five unions that represent members in both the public and private sectors. Examining these strands reveals the extent of the shift in the character of union organisation in Germany.

2.1 Mergers involving the Chemical Workers' Union

IG CPK was at the core of the first strand of merger activity in the private sector, much prompted by the initiative of Hermann Rappe. IG CPK initially acquired the small *Gewerkschaft Leder* (GL-Leatherworkers' Union) in 1996-1997 and, in a more wide-ranging amalgamation, combined with *Industriegewerkschaft Bergbau und Energie* (IGBE-Mineworkers' Union). At the time of its acquisition the GL was the smallest affiliated union of the DGB and was unable to support its membership. The GL had relied heavily on support services provided by the DGB prior to the merger, such as the training of

2 The sections of the *Verband Schriftsteller* (VS) with communist affiliation encouraged the entire association to join in the merger to form IG Medien. However, a substantial proportion of the VS refused to take part in the merger and established another professional association with the intention of furthering professional interests, which were viewed as differing from trade union interests.

Betriebsratmitglied (works councillors) and the provision of legal services. Furthermore, the leather industry was contracting under the pressure of international competition, thus resulting in a declining number of potential members. The GL was also the only affiliate of the DGB that failed to secure sufficient additional members after unification to reverse pre-1990 declines in membership (see Table 1).

The IGBE was also locked into a declining industrial recruitment base with little opportunity to break out. However, the IGBE was a membership beneficiary from unification, albeit only for the short-term. In attempting to abandon the straitjacket of a mining recruitment base, the IGBE encountered strong opposition from ÖTV in the recruitment of energy workers in the new *Länder*. The IG CPK supported the IGBE in its opposition to ÖTV within the DGB. This support, coupled to the moderate alignment of both unions within the DGB, was the basis on which merger negotiations were built. Neither union was compelled to merge because of financial reasons, although the long-term future of the IGBE was open to question due to the decline of the mining industry. A large, and growing, proportion of its membership comprised retired mineworkers, which also suggests a long-term diminution of influence and income from membership contributions. More important to the merger was the prospect of establishing a moderate influence to counter-balance that of the left-led IG Metall within inter-union bargaining institutions. In order to promote such a development IG CPK had attempted to build an alliance with IG BSE in 1991, with the objective of moving from the closer working agreement signed by the two unions towards a merger (IRS 1992). Although this initiative went into abeyance, it seems likely that it will be resuscitated in the light of relative membership developments and the acquisitions made later by IG Metall.

2.2 Mergers involving the Construction Workers' Union

The second strand of private sector merger activity centred on IG BSE. Bruno Köbele, the then President of IGBSE had endorsed the views towards mergers of Hermann Rappe during the early 1990s, but had been unable to develop the closer working arrangements between IG BSE and IG CPK into a merger. The membership of the *Gewerkschaft Gartenbau, Land und Forstwirtschaft* (GGLF-Agriculture and Forestry Workers) had remained at less than 50,000 before unification and, after the initial post-unification surge, had fallen away steeply. The wide geographical distribution of the agriculture and forestry industries, coupled to the small average size of workplaces and the anti-union culture of many rural communities, militated against dense union organisation. The relatively small size of the GGLF also limited the range of services available to members. The prize from the merger for the IG BSE was the opportunity to incorporate the word '*umwelt*' (environment) in the title of the post-merger union and, hence,

claim recruitment preference in an expanding area of the economy. Earlier attempts to change the name of the IG BSE and adopt *umwelt* had met with fierce resistance from IG Metall, IG CPK and ÖTV, which also claimed recruitment access in the area. This opposition resulted in a decision within the DGB to reject the proposed name change. The name change from the IG BSE to *Industriegewerkschaft Bauen-Agrar-Umwelt* (IG BAU-Construction, Agriculture and Environment Union) was thus not the result of an amalgamation of equal parties, but the preference to situate the post-merger union in an area of potential membership growth. In practice, IGBSE acquired the GGLF, which was the minor party in the merger.

2.3 Mergers involving IG Metall

Since 1949 IG Metall has been the largest union in Germany. Mergers involving other unions threatened this position and prompted the union to consolidate by acquiring the *Gewerkschaft Textil-Bekleidung* (GTB-Textile and Clothing Workers) and the *Gewerkschaft Holz und Kunststoff* (GHK-Wood and Plastics Workers) after 1998. By acquiring these unions IG Metall precluded their involvement in mergers with other competitor unions. The GTB organised in a contracting industry and had searched for merger partners since the late 1980s. Merger discussions with both IG CPK and *Gewerkschaft Nahrung, Genuss, Gaststätten* (NGG-Food and Restaurant Workers) failed to produce a satisfactory merger agreement. Politically, IG CPK and NGG would have been a more 'natural' home for the GTB, as all three unions were aligned with the moderate wing of the DGB. Furthermore, the industrial linkages between the chemical and textile industries are wide-ranging, particularly in the area of artificial fibres. However, both IG Metall and the GTB cited industrial linkages between the memberships following the announcement of their merger agreement. In particular, the links between textile workers engaged in the production of car seats, safety belts and automobile upholstery and the metal workers that assemble the cars were emphasised. While these may be contiguous processes, the two unions also acknowledged that separate collective agreements would be maintained after the merger. Working in contiguous processes thus does not necessarily lead to mutual support. Indeed, the maintenance of separate collective agreements suggests that logistic support rather than collective support is the likely outcome. The choice of IG Metall by the GTB was also influenced by the relatively high rates of pay paid to full-time officers in IG Metall, which would be available to officers from the GTB after the merger (Streeck and Visser 1998:26).

IG Metall acquired the GHK during 1999. Again, representatives of the unions stressed the industrial linkages between the two memberships. Both unions organised the car components industry, and in bus and coach manufacturing the same company was

organised by different unions in different *Länder* (IRS 1996). In addition, both unions were on the left wing of the DGB, the GHK in even more explicit form than IG Metall. The capacity of the post-merger union to improve the quality of services available to members was cited by Gisbert Schlemmer, President of the GHK. This reflected the internal difficulties faced by the GHK of a declining membership, 145,128 at the time of the merger from a peak of 239,472 in 1991, and rising internal costs. In other words, acquisition by IG Metall represented a means of maintaining services for GHK members. Apart from the additional votes gained by IG Metall for deployment within DGB institutions, the direct benefits of the merger to metal workers remain unclear.

2.4 The VER.DI merger process

A further prompt to IG Metall to consolidate its position is the proposal to amalgamate five unions to form a union that would straddle the public and private sectors. In addition to four affiliates of the DGB – ÖTV, IG Medien, DPG and *Gewerkschaft Handel, Banken und Versicherungen* (HBV-Banking and Commerce Union), the proposal includes the DAG. To date, each of the unions has ratified the proposal and a new union is expected to be formed in 2002 with the title *Vereinigte Dienstleistungsgewerkschaft* (VER.DI-United Services).

A complex series of alliances and pacts preceded the current merger proposal. Two principal avenues of development can be identified. The first of these was set in motion during 1994 when the ÖTV and DAG announced a programme of co-operation at the centre of which was the co-ordination of wage demands. Prior to this announcement ÖTV had pursued disproportionate increases for its lower paid members, whereas DAG, with a concentration among higher paid staff, had advocated across-the-board percentage increases. The two unions amended these initial positions in order to co-ordinate their bargaining strategy. Co-ordination of wage demands facilitated the development of a federation for bargaining purposes (*Tarifgemeinschaft*) of unions in the public sector, which included ÖTV and DAG, together with GdP, DPG and the GdED. Still deeper co-operation between ÖTV and DAG was achieved with the establishment of a joint union sponsored by the two partner unions. This union, the International Public Servants Organisation (IPSO), is intended to recruit in European level organisations based in Germany.³

Principal parties in the second avenue of development included the left-led IG Medien and HBV, together with the DPG. During October 1996 these unions announced

3 Among the institutions targeted by IPSO are the European Central Bank and the European Shipping Law Courts.

a package of closer co-operation arrangements and invited other unions to participate. This invitation was made in the hope of attracting more financially stable unions into the alliance, as the three participating unions were not financially robust. While the NGG was interested in the alliance for a period and entered into preliminary merger discussions with the HBV before electing to maintain its independence, the telling development was the interest, and subsequent involvement, of ÖTV and DAG. Initially the GEW and GdED also participated in the discussions. These two unions, however, declined to further the merger negotiations that arose from the initial co-operation arrangements and dropped out of the formal merger proposal, thus leaving five unions. If this merger is finalised there will only be eight unions affiliated to the DGB.

The proposal to form VER.DI represents a significant shift away from the original federal restructuring arrangements suggested by ÖTV. Furthermore, the formation of VER.DI introduces on a much larger scale than earlier mergers, issues of post-merger integration. In particular, the scale of questions concerning the integration of unions that espouse different political positions, that have different bargaining positions with employers, and that organise across a wide range of industries and occupations require innovative solutions if the new union is not to be weighed down by internal debates and controversy. UNISON in the UK and *Bondgenoten* in Holland, for example, were both large-scale mergers that resulted in financial overspending, which necessitated significant reductions in staff and long periods of post-merger introspection, as issues arising from the internal politics of the new unions were addressed. If these events were duplicated in the case of VER.DI, the opportunities to improve the quality of services to existing members and to extend recruitment into the unorganised areas of private sector services would be much reduced.

In summary, the German trade union merger process has followed neither a political nor an industrial logic. Unions aligned with the moderate wing of the DGB have merged, or will merge, with their left-led counterparts and vice-versa. Similarly, some opportunities to merge unions of contiguous industries were rejected, as the terms of an alternative merger agreement were viewed as superior. Mergers, however, have resulted in a significant shift further away from industrial unionism. Indeed, three of the four unions that have not been involved in a merger are either occupational (GdP and GEW) or company based (GdED). Furthermore, the plans for restructuring formulated during the early 1990s were rejected in practice. The initiatives launched from within acquiring unions were often opportunistic, while the smaller unions were prepared to listen to merger offers from several unions before selecting a merger partner. An additional characteristic of the merger process is that it tends to be initiated at head office level. Although members or delegates may be involved in pre-merger conferences and working

parties and in ratifying the final agreement, there is no concerted pressure for merger exerted by members on union leaderships.

3. WHAT ARE THE REASONS FOR MERGER ACTIVITY?

The reasons that underpin trade union merger activity are wide in scope and irregular in their effect (Waddington 1995; Chaison 1996; Hoffmann and Waddington 1998). In the specific context of Germany, three inter-linked factors were particularly influential and account for the clustering of merger activity within a relatively narrow time frame: membership change and shifts in the composition of potential membership; financial shortfalls and membership demands for improved services; and the effect of the erosion of industrial boundaries on a union structure where vertical organisation is prominent. The impact of these factors on the four merger strands are examined below.

3.1 Membership change

The impact of membership change can be usefully differentiated into three discrete categories. The first of these is membership decline. Reference to Table 1 shows that the period since 1975 is divided into pre- and post-unification developments. Between 1975 and 1990 there was a mixed pattern of development among unions affiliated to the DGB, with eight unions sustaining membership losses and nine unions achieving membership growth. However, both IGDP and GK, which merged before 1990, lost members. Immediately after unification all unions except the GL increased members as large numbers of workers from the new *Länder* transferred allegiance to unions based in the west. Membership peaked in 1991 for most unions and fell sharply thereafter. The extent of these losses varied from 36.1 per cent sustained by HBV to 3.7 per cent incurred by GdP. With the exception of the GdP all unions lost more than 21 per cent of their members between 1991 and 1998.⁴ Thus, for some unions membership loss was a long-term phenomenon stretching back beyond 1975, although interrupted by the sharp increase associated with unification, whereas for other unions decline was relatively short-term and was linked directly with members lost from the new *Länder*.

A second issue related to membership change is the changing composition of the German labour force. Table 2 shows the extent of shifts away from primary industries

4 The extent of membership losses between 1991 and 1998 are shown below. Where unions have merged the combined membership figure is used for 1991. IG BAU lost 32.6 per cent; IG BCE 32.9 per cent, IG Metall 30.7 per cent, NGG 34.5 per cent, GEW 21.8 per cent, GdED 33.2 per cent, GdP 3.7 per cent, IG Medien 24.6 per cent, ÖTV 26.0 per cent, and HBV 36.1 per cent.

and manufacturing towards private sector services. Within the context of overall economic growth between 1957 and 1994, employment in agriculture, forestry and fishing and in energy, water and mining declined markedly. Furthermore, the rate of decline in manufacturing accelerated during the 1990s. In other words, where union organisation was concentrated, employment declined. The impact of the decline of specific industries is particularly hard-felt where unions adhere to the principle of industrial unionism. For example, it was not possible for GGLF, GTB or GL to extend their recruitment bases into expanding areas of employment, yet the contraction of employment within these recruitment bases prevented these unions from sustaining sufficient members to retain their independence. Similarly, the efforts of IGBE to extend recruitment activities into the energy sector met with fierce resistance and thus limited opportunities to move into an area of large potential membership.

A third influence on the merger process arising from membership change is relative union size. The impact of changing union size is accentuated by the constitution of the DGB, which confers voting rights to affiliated unions on the basis of membership size. IG Metall, for example, has maintained a pre-eminent position within the DGB on the basis of its membership size (Markovits 1986). The formation of VER.DI will put greater pressure on the unions in manufacturing on at least two counts. First, in the short-term VER.DI will organise 36.3 per cent of the membership of the DGB compared to 33.2 per cent in IG Metall and 10.9 per cent in IG BCE.⁵ Second, Table 2 shows that the potential membership of VER.DI has grown over recent years, a pattern that is likely to continue, whereas that of the manufacturing unions is more likely to contract. The relative size of VER.DI is, therefore, likely to increase in the medium- or long-term, unless the unions in manufacturing can complete more mergers or extend their recruitment bases. Preliminary discussions towards the first of these options between IG Metall and GdED and between IG BCE and IG BAU may thus constitute initial steps in a further phase of restructuring. Pursuit of the second option is also underway as unions in manufacturing

5 These figures are based on the 1998 membership of the unions listed in Table 1. The membership of the DAG is included as part of VER.DI, which is treated as a union affiliated to the DGB. The relative strengths of the eight unions that will remain after the VER.DI merger calculated on this basis are as follows;

Trade Union	Membership	Proportion of DGB Membership %
VER.DI	3,193,084	36.3
IG Metall	2,918,044	33.2
IG BCE	955,734	10.9
IG BAU	614,650	7.0
GdED	352,161	4.0
NGG	282,521	3.2
GEW	281,236	3.2
GdP	193,578	2.2

attempt to recruit service sector workers employed on outsourced work at manufacturing sites, such as catering, laundry and cleaning. Policies directed towards this second option are very likely to lead to disputes with VER.DI.

3.2 Union finances

Financial shortfalls and rising membership demands for improved services have also promoted merger activity. The parlous financial position of several unions was adversely affected by the policies adopted to accommodate German unification. Trade unions were obliged to set up office and communication networks throughout the new *Länder* in order to support the vast numbers of new members they had recruited. This proved extremely expensive. Even though unions in manufacturing tended to opt for skeleton networks in anticipation of the subsequent decline, they opted for arrangements that proved to be too extensive. Unions that organised the public sector and private sector services established more extensive office communication networks in anticipation of sustaining the membership gains secured between 1990 and 1991. They were thus more hard-hit than the manufacturing unions when the collapse in membership took effect. ÖTV, HBV, DAG and DPG, in particular, were forced to adopt austerity measures in order to address financial shortfalls. These took the form of transferring money from strike to operating funds, introducing voluntary retirement schemes for paid officials, imposing freezes on the hiring of new staff and closing offices. A slower than expected rate of wage increases for workers in the new *Länder* compounded financial difficulties. Union contributions are based on a percentage of wages. The slow rate of wage increases thus slowed the rate of increase in membership contributions, which are no more than 70 per cent of those paid in the west.

Financial difficulties were also exacerbated by the impact of bargaining decentralisation and union attempts to adjust. Decentralisation in Germany has taken the form of a rising number of company agreements; a decline in the membership of employers' associations; and a decline in the coverage of collective agreements, particularly at small sites (Hassel 1999; Flecker and Schulten 1999). For example, recent estimates indicate that 38.4 per cent of workplaces are not covered by collective agreements (Kohaut and Bellmann 1997). As collective bargaining coverage and plant size are inversely related, and future employment growth will be concentrated at smaller plants, coverage is likely to decline still further. The rise in the number of company agreements increased organising costs as it necessitated that unions support members or officers in the conduct of a larger number of negotiations. Furthermore, following an extensive review published in 1990, several unions embarked on a strategy of promoting decentralised

and participatory institutions with the intention of generating more members from under-represented groups (Hoffmann et al. 1990). The outcome of both of these developments was rising internal union costs, which encouraged unions, particularly the smaller ones, to seek a merger.

3.3 Industrial restructuring

A third influence on the merger process is the restructuring of the German economy. The stability of trade union structure resulted from the system of exclusive jurisdiction established by trade unions during the late-1940s and the apparatus administered by the DGB to 'police' these jurisdictions. While inter-union disputes over membership have always characterised trade union relations, they have tended to become more intractable due to three developments.

Firstly, the industrial boundaries on which trade union structure was initially founded are disappearing or no longer exist. In particular, companies have diversified, privatisation has shifted the industrial location of companies and outsourcing has undermined the distinction between manufacturing and services (Hoffmann 2000). Where diversification involved company mergers or acquisitions, it has often resulted in two unions organising different plants within the same company. If a parent company brings an acquired company within its bargaining arrangements, one union may have to abandon its members. Where a company diversifies by establishing a separate enterprise, the union in the parent company has often recruited members in the new enterprise, thereby, further breaking down the structure of union jurisdiction. Privatisation has clouded the issue still further in that it has shifted companies from the public to the private sector and has often been accompanied by additional companies entering the market of the original public sector enterprise. *Deutsche Telekom*, for example, now competes with several other companies for telephone services, including *Mannesmann*, which was founded on the steel industry. The DPG, which traditionally was the union for uniformed postal workers, organises *Deutsche Telekom*, is thus brought into recruitment competition with other unions if it is to maintain its jurisdiction over telephone services. The response of unions to outsourcing has also contributed to the erosion of industrial jurisdictions. Where manufacturing companies have outsourced catering, cleaning or laundry services, the union that organises the manufacturing plant has often claimed the service workers as potential members and sought to recruit them. Through this approach unions with contracting recruitment bases in manufacturing have extended their recruitment opportunities. This extension, however, is at the expense of unions from private sector services.

Secondly, new industries established after the original jurisdictions were laid down have been a source of dispute throughout the period since 1949. Earlier disputes between unions concerned the allocation of companies involved in the then new industries of photographic processing and artificial fibres. Recently these disputes have become more frequent as a whole range of industries associated with micro-chip technologies have developed. Jurisdiction over data processing and computer software enterprises, for example, is hard fought as unions within the contracting manufacturing sector attempt to extend their jurisdiction. Unification heightened this tension, as industry in the new *Länder* was not organised on the same basis as that in the west and resulted in a series of disputes over jurisdiction.

A final element of restructuring that impacts on the merger process is the decline of the traditional training-employment-retirement career path and its replacement with employment interspersed with repeated periods of retraining. A result of this development is that the allegiance of a worker to a single industry is likely to be more temporary than in the past. In these circumstances vertical union organisation does not offer the worker long-term protection unless s/he transfers from union to union with each change of employment. Furthermore, in many service sector occupations where there are low level qualification requirements, transfers between companies and industries are commonplace, particularly among the young. An industrial union offers nothing more than short-term security for such workers.

The German trade union merger process is primarily a defensive reaction to shifts in membership, union finances and industrial restructuring. Although merger activity has been concentrated within a short period of time, the reasons that promoted it were present for much of the period since about 1970. The impact of German unification accentuated existing trends insofar as it promised false hope, in the form of extra members, only for this to be dashed as these members lost their jobs. In consequence, unions were left with an infrastructure to support in the new *Länder*, but insufficient members to pay for it. The merger process is unlikely to conclude with the formation of VER.DI. With a rising size threshold of union viability, the remaining smaller unions will come under increasing pressure to merge unless they improve on their current rates of recruitment. Whatever the case, a keen interest in further mergers will be sustained within the larger unions as part of a response to the new politics of relative membership size.

4. IS THE GERMAN MERGER PROCESS DIFFERENT?

Some have argued that every merger is a unique event and, as a consequence, that it is not possible to generalise about the merger process (Chitayat 1979). Each merger

process is certainly unique insofar as it impinges upon a particular trade union structure. There are, however, a number of common features shared by the German trade union merger process and the merger activity underway elsewhere. This section identifies some of these shared features as a means of locating the German merger process within a wider process of union restructuring.

From the outset it should be acknowledged that trade union structures throughout Western Europe are in process of reform by means of mergers. Union numbers have thus tended to decline. A widespread feature of structural change is that some industries, including agriculture, wood, mining and leather, have contracted to the point where they are not large enough to sustain independent unions. Small unions from these industries have tended to be acquired by larger counterparts. A rising size threshold of union viability is also a feature common to several countries, although the extent of support from union confederations influences the point at which this threshold operates. The large numbers of small unions involved in merger activity tend to listen to merger proposals from a number of potential merger partners before selecting the best merger offer. The selection of merger partners by these small unions thus varies between countries, with the result that there is no convergence in trade union structure.

Mergers and the changing composition of employment are acting to ensure that the membership of larger, acquiring unions is becoming more heterogeneous. In many countries, including Germany, increasing membership heterogeneity is concurrent with membership decline. A more diverse membership is thus demanding a wider range of support services from unions at a time when union income from membership contributions is declining.

The reasons cited for merger activity are also similar across a range of countries. The combined effects of membership decline, company restructuring and diversification, financial difficulties and the decentralisation of bargaining have promoted mergers in the Netherlands, Sweden, Norway, United Kingdom, United States. Mergers are thus a defensive response to adverse change. Whether they can be turned to strategic advantage in Germany is examined below. Evidence from elsewhere suggests that this is not generally the case (Chaison 1996; Visser and Waddington 1996; Waddington 1995).

The merger process rarely follows a blueprint established within the union movement concerned. An exception is the merger strategy developed by the Australian Council of Trade Unions (ACTU), which was generally followed by affiliated unions. The German pattern is more frequently observed, with merger initiatives arising from within head offices of individual unions. There is no evidence to suggest any widespread membership pressure for merger involvement. A consequence of this pattern of deve-

lopment is that individual mergers are often unconnected and, although the number of unions may decline, there may be no simple rationalisation of trade union structure. In the German case, as elsewhere, industrial and political influences impinge on the merger process, rather than a single guiding principle. The German merger process is also consistent with merger activity in other countries where single union confederations occupy a dominant position, in that unions from inside and outside of the confederation are involved. This pattern of merger activity contrasts with that in countries where several confederations operate. For example, in both the Nordic model of occupational confederations and in the Southern European politically differentiated confederations, confederal boundaries generally act as a limit to the search for merger partners.

The German merger process is also similar to its European contemporaries in that it has promoted greater complexity in internal union organisation. A range of constitutional measures have been introduced to ensure that members from acquired unions are allowed a degree of bargaining autonomy within the post-merger union. Separate conferences, the employment of the acquired union's officers and forms of internal sectoral representation characterise this development. Such arrangements are often costly to operate and have reduced the economies of scale that otherwise might have been secured by a merger. Associated with the allowance of a degree of bargaining autonomy for the different sections of post-merger membership is constitutional centralisation, whereby the union executive or similar body retains central control of finances and of the decision to strike.

5. OUTSTANDING QUESTIONS

In common with merger processes elsewhere, German union restructuring is a defensive adjustment. Two key questions arise from the nature of the union response. First, what is the future of the DGB in circumstances of eight or fewer affiliated unions? Second, are post-merger unions equipped to extend higher levels of membership, participation and organisation into hitherto unorganised sectors of the economy? How trade unionists address these questions will determine the future of German trade unionism and whether defensive mergers may be turned to long-term strategic advantage. Issues associated with these questions are now considered.

5.1 Future of DGB

Traditionally the DGB has provided services to, and performed co-ordination functions on behalf of, affiliated unions. The services provided by the DGB include training and

legal support and the adjudication of inter-union disputes. To facilitate co-ordination the DGB convenes *Ortskartelle* (local trade councils),⁶ fosters links with, and lobbies, the *Sozialdemokratische Partei Deutschlands* (SPD-Social Democratic Party), lobbies the governments of the *Länder* and the federal state on social affairs and labour market policy, and has represented German trade unions within the European Trade Union Confederation (ETUC). The reduction in the number of affiliated unions raises questions about the future of the DGB, which has led to its role in each of these areas being subject to detailed scrutiny from within post-merger unions and the pre-merger VER.DI alliance. The uncertainty surrounding the DGB has been compounded by the absence of any direct constitutional authority held by the DGB over affiliated trade unions, coupled to the cut-backs that it has been forced to introduce to offset a marked decline in income.⁷

The role of the DGB in the provision of services is being curtailed. The larger unions increasingly are providing support services to their own members, rather than out-source such provision to the DGB. IG Metall and ÖTV, for example, now provide legal services directly to members. In this context the DGB tends towards being a support service for the smaller affiliated unions. As these smaller unions are acquired by larger affiliates, so the role of the DGB diminishes. The future of the DGB as a provider of services to all affiliated unions is thus very much open to question.

The impact of merger activity on the DGB's role in the adjudication of inter-union disputes is more difficult to assess. It is clear, for example, that mergers have not eliminated inter-union tensions concerning recruitment, but merely shifted their location. In the case of VER.DI long-running disputes between HBV, ÖTV and DAG will become issues for intra-union resolution. The acceptance of the DAG into the DGB, however, will bring a raft of new inter-union tensions over recruitment on to the agenda of the DGB. It is also questionable whether a smaller number of larger unions will be prepared to accept the decisions of the DGB *Schiedskommission* (Disputes Committee). An increasing number of these decisions have been questioned subsequently by unions in the Labour Courts, thus bringing the mandate of the Disputes Committee into question. Furthermore, if the DGB *Schiedskommission* adheres to current practice by adjudicating in favour of the established union, it would effectively consolidate the horizontal structure of the DAG within VER.DI. This would curtail recruitment opportunities for each of

6 *Ortskartelle* are local trades councils comprising representatives of the different DGB affiliated unions at the level of a *Kreis* (region) or town. Issues of concern to the locality are discussed, such as local levels of unemployment and employment, environment, cultural events (including solidarity campaigns, concerts, car boot sales, etc.), and the servicing and recruitment of members. Recent estimates put the total number of *Ortskartelle* at between 1,200 and 1,300 (Mielke et al. 1994).

7 Affiliated unions are the principal source of income for the DGB. The sharp decline in membership among affiliates after 1991 thus led to a similarly sharp decline in the income of the DGB, which was forced into a wide-ranging austerity programme that involved the closure of complete departments.

the unions in manufacturing and thus, repeatedly bring them into conflict with VER.DI within the DGB. Whatever the case it appears that, at the very least, current practices will need to be reformed if the allegiance of all affiliated unions is to be secured.

The DGB is also under similar pressure regarding its co-ordination activities. Post-merger unions and the VER.DI alliance are engaged in discussions to take over the functions of the *Ortskartelle*, not least because taking over this function would 'bring the union closer to the members'. In pursuit of policies attached to the *Neue Mitte* programme relations between the unions and the SPD have been conducted at 'arms length'. The authority attained by the DGB in lobbying the SPD on behalf of affiliated unions has thus been dissipated. Furthermore, as membership becomes more concentrated in larger unions, the opportunities for direct relations between unions and the SPD become more widespread. The support facilities required to promote such relations, including research and communication departments, are available within the larger unions.

The position of the DGB is strengthened by its role within the ETUC. Furthermore, a recent decision within the ETUC ratified existing arrangements, insofar as national confederations retained their dominant position and European Industry Federations (EIFs) were prevented from securing wider influence. Moreover, the separate affiliation of the DAG with the ETUC is likely to be rescinded once the VER.DI merger is ratified. On the surface, therefore, the position of the DGB appears secure. Three points, however, suggest that this security may not be long-lasting. Firstly, affiliated unions have fairly successfully prevented the DGB from assuming a direct role in bargaining through the ETUC. Although some framework agreements have been concluded, these have not eroded the dominant position of the sectoral unions. Secondly, in recent years affiliated unions have raised their profile within EIFs. In several EIFs German unions are the largest affiliates. Furthermore, the merger of chemical and miners' unions to form IG BCE followed the corresponding merger in 1996 between the two EIFs in the same industries (European Federation of Chemical and General Workers' Unions and the Miners' European Federation) to form the European Mine, Chemical and Energy Workers' Federation (EMCEF). In other words, the merger to form IG BCE strengthened the position of the post-merger union with EMCEF.

Thirdly, there is a range of initiatives launched by individual unions that by-pass the DGB and offer the possibility of offering direct working links between German unions and their European counterparts. IG BCE, for example, concluded joint recognition of membership cards agreements with the General, Municipal and Boilermakers' Union (GMB) from the UK and the Services, Industrial, Professional and Technical Union (SIPTU) from Ireland. Representatives from these unions now convene regular meetings with

the objective of deepening working relationships. Similarly, both IG Metall and IG BAU are engaged in cross-border bargaining initiatives with unions from Netherlands, Belgium and Luxembourg. In the case of the Doorn initiative, the DGB observed the discussions leading to the joint declaration but, as it has no direct bargaining role, representatives of affiliated unions were the major participants. European Works Councils have also fostered relations between representatives of individual unions and their counterparts from other countries to the exclusion of the DGB. Of course, this is not to argue that European wide collective bargaining is on the immediate horizon, but to point out that the days are over when international relationships were conducted exclusively through the DGB. A complex network of direct linkages is being established between individual unions from different countries. Those that involve German unions weaken the position of the DGB. The DGB is thus a major 'loser' from the merger process. Each of the functions that it performs on behalf of affiliated unions is threatened by the activities of post-merger organisations.

5.2 Improved organisational strength?

A second key question that arises from the merger process concerns the capacity of post-merger unions to extend recruitment, organisation and participation into the unorganised sectors of the economy. Aggregate membership continues to decline and young, women and foreign workers, employed at small workplaces primarily in private sector services, are under-represented. Will the merger process provide the opportunities to reverse these trends? A positive answer to this question would enable advocates of the merger process to argue that unions were able to transform a defensive reaction into a strategic gain. Concurrently post-merger unions will also have to retain traditional members. In order words, measures will have to be taken to ensure that traditional members sustain their links with extant organisational cultures (*organisatorische Heimat*) in larger, and perhaps more centralised, post-merger unions.

Central to these issues is the development of more extensive links between unions and existing members at organised workplaces. The decentralisation of bargaining has shifted the settlement of a wider range of issues to the workplace. Unions need to develop their support networks for members engaged in these negotiations. In broad terms, these two issues focus on the articulation and co-ordination of union organisation. That is, can mechanisms be introduced to ensure that activities conducted at different levels of union organisation are interdependent, thereby precluding the isolation of local unionists, and, in the multi-industry unions, can activities within different industries be co-ordinated as part of a process to develop a coherent union identity? Apart

from the additional logistical support, for example, it is unclear what benefits accrue to textile workers from the merger with IG Metall.

Proponents of mergers generally argue that post-merger economies of scale will lead to an increased range of services available to members. The declaration that accompanied the announcement of the VER.DI merger, for example, claimed that the post-merger union would provide enhanced opportunities for members to participate in union affairs, improvements in personnel and cost structures and would implement a wider range of strategies to organise non-union sites (Schulten 1998).

Whether these claims are matched by post-merger practice is open to question. In the acquisitions of the GL, GGLF and GTB the maintenance, rather than the extension, of support services was the priority. These unions were unable to sustain an appropriate level of support services. Table 1, however, indicates that these mergers had very little influence on the rates of post-merger membership loss sustained by the unions involved. Advocates of mergers would argue that these were special cases in that they involved unions from contracting areas of employment, where relatively few young and women workers were employed. In this sense the VER.DI merger is the acid test, as the intention is to spread union organisation throughout private sector services.⁸ VER.DI will cover most of the services sector. It can thus offer long-term protection to workers employed in the service sector, even if they transfer employment between different service industries.

Considerable and rapid cultural change during the merger process is a pre-requisite if this objective is to be realised. For example, although several of the constituent unions of VER.DI represent large numbers of young and women workers, they are underrepresented compared to their older and male counterparts. The duplication of existing practice would thus be insufficient. Furthermore, DAG, IG Medien and HBV primarily draw their members from large workplaces, rather than the small sites at which employment is expanding. Past experience of organising private sector services may thus be inappropriate for the tasks that lay ahead. Each of the unions involved in the VER.DI merger also operates with a significant bureaucracy that functions in a traditional manner, which many young and women workers find unattractive and cite as a reason for staying out of a union. As the membership scope of VER.DI will be significantly broader than that of its constituent parts, the task of reducing this bureaucracy will be problematic without large-scale job losses among the employees of the union. Alternatively, if the bureaucracy becomes larger, a range of innovative measures are required

8 Any future merger involving NGG would also fit into this category, as it has a membership located primarily in private sector services and represents a basis upon which wider organisation might be established.

if it is to become more responsive to members and thus be more attractive to the target groups.

6. CONCLUSIONS AND PROSPECTS

In the course of the last ten years the German merger process has transformed a trade union structure that had remained virtually unchanged since 1949. If the VER.DI merger is ratified the number of unions will have been halved and the principle of industrial unionism abandoned in practice. Inter-union politics are also likely to be fundamentally changed as the pre-eminent position of IG Metall is under threat. Furthermore, it seems likely that additional mergers will be completed before the current wave of activity dissipates.

Whether the trade union movement is stronger or better equipped to address its policy agenda as a result of these mergers is a moot point. It is certain that the position of the DGB is more precarious than hitherto, and is likely to become more so. There is no convincing evidence to indicate that post-merger unions are delivering economies of scale, nor have post-merger unions proved more attractive to non-members. A key question for the future is, can post-merger unions achieve higher rates of unionisation in private sector services and, in particular, attract more young, women and foreign workers into membership? If this question can be answered in the affirmative over the coming years, German unions will have transformed a defensive reaction to adverse change to their strategic advantage. In contrast, a negative response to the question points to a long period of decline with membership remaining concentrated in the contracting sectors of the economy.

FIGURE 1: CHARTING THE STRUCTURAL TRANSFORMATION

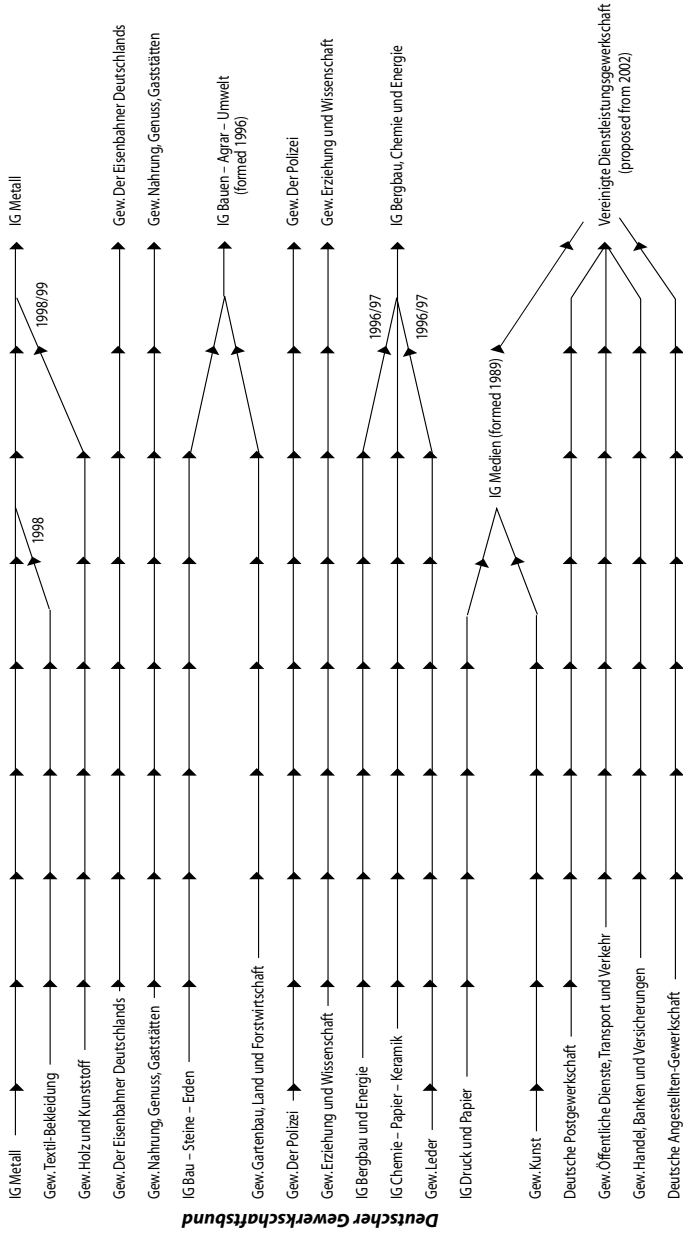


Table 1: TRADE UNION MEMBERSHIP, 1975 – 1998

Trade Union	1975	1980	1985	1990	1991	1992	1994	1996	1998
IG Bau-Steine-Erden	509,422	533,054	507,528	462,751	776,781	695,712	652,964		
Gew. Gartenbau, Land und Forstwirtschaft	39,309	42,196	42,450	44,054	134,980	120,190	90,281		
IG Bauern-Agrar-Umwelt								692,466	614,500
IG Bergbau und Energie	378,369	367,718	356,706	322,820	506,640	457,239	390,000	335,317	
IG Chemie-Papier-Keramik	644,271	660,973	649,569	675,949	876,674	818,832	742,367	694,897	
Gew. Leder	56,458	55,689	48,725	42,615	41,718	31,890	25,043	21,929	
IG Bergbau, Chemie, Energie									955,734
IG Metall	2,556,184	2,622,267	2,553,041	2,726,705	3,624,380	3,394,282	2,995,738	2,752,226	2,772,916
Gew. Textil-Bekleidung	283,234	293,766	258,846	249,880	348,095	288,198	234,240	199,166	
Gew Holz und Kunststoff	132,054	157,142	144,653	152,731	239,472	204,763	179,678	159,829	145,128
Gew. Nahrung, Genuss, Gaststätten	248,724	253,001	267,158	275,203	431,211	394,686	336,239	310,891	282,521
Gew. Erziehung und Wissenschaft	139,294	183,793	194,028	189,155	359,852	346,040	316,196	296,232	281,236
Gew. der Eisenbahner Deutschlands	447,914	406,588	354,180	312,353	527,478	474,530	423,163	382,113	352,161
Gew. der Polizei		165,900	163,590	162,780	200,997	197,451	197,482	199,421	193,578
IG Druck und Papier	157,985	143,970	140,725						
Gew. Kunst	36,461	45,252	27,019						
IG Medien				184,720	244,774	236,306	215,155	197,309	184,656
Gew. Öffentliche Dienste, Transport und Verkehr	1,058,525	1,149,689	1,179,396	1,252,599	2,138,316	2,114,522	1,877,651	1,712,149	1,582,776
Deutsche Postgewerkschaft	419,585	450,201	460,626	478,913	611,969	611,244	546,906	513,322	474,094
Gew. Handel, Banken und Versicherungen	257,123	351,328	371,228	404,695	737,075	629,727	546,270	505,405	471,333
Deutsche Gewerkschaftsbund	7,364,912	7,882,527	7,719,468	7,937,923	11,800,412	11,015,612	9,768,373	8,972,672	8,310,783
Deutsche Angestellten-Gewerkschaft	470,446	494,874	500,922	573,398	584,775	578,352	520,709	501,009	480,225

Source: Quelle, Statistical Yearbook, various years.

Note: 1. Membership includes unemployed and retired workers that remain trade union membership.

Table 2: THE CHANGING COMPOSITION OF EMPLOYMENT, 1957-1998

Year	Total (000s)	Agriculture, fishing and forestry (000s)	Energy, water and mining (000s)	Manufacturing (000s)	Construction (000s)	Retail (000s)	Transport and communication (000s)	Insurance and banking (000s)	Other private services (000s)	Non-profit making organisations (000s)	Public services (000s)
1957	27,523	4,112	923	9,923	1,917	2,976	1,442	420	2,372	614	1,508
1960	26,194	3,541	864	9,795	2,064	3,126	1,509	437	2,579	669	1,610
1965	26,629	2,965	699	10,130	2,189	3,180	1,574	551	3,221	474	1,647
1970	25,951	2,370	521	10,250	2,026	3,129	1,438	645	3,493	389	1,692
1975	25,960	1,726	514	9,744	1,812	3,106	1,513	761	3,904	389	2,491
1980	26,974	1,437	530	9,674	1,970	3,207	1,515	861	4,460	553	2,666
1985	26,626	1,262	512	8,650	1,933	3,268	1,512	951	5,406	465	2,667
1990	29,334	1,070	483	9,450	1,970	3,532	1,690	1,060	6,594	646	2,840
1991	37,445	1,575	767	11,877	2,706	4,360	2,306	1,230	8,488	745	3,390
1992	36,940	1,379	707	11,043	2,918	4,403	2,257	1,287	8,586	807	3,553
1993	36,380	1,255	654	10,423	3,053	4,352	2,219	1,300	8,903	817	3,405
1994	36,076	1,190	602	9,851	3,180	4,402	2,169	1,281	9,033	874	3,493
Change	8,553	-2,992	-321	-72	1,263	1,426	727	861	6,661	260	1,985
% change	31.1	-71.1	-34.8	-0.7	65.9	47.9	50.4	205.0	280.1	42.3	131.6

Year	Total (000s)	Agriculture, fishing and forestry (000s)	Energy, water and supply (000s)	Mining and manufacturing (000s)	Construction (000s)	Retail hotels and restaurants (000s)	Transport and communication (000s)	Insurance and banking (000s)	Private property, renting, services for enterprises (000s)	Public admin (000s)	Health, education local gov't (000s)
1995	36,048	1,163	359	9,207	3,378	6,188	2,031	1,294	2,160	3,399	6,871
1996	35,982	1,075	334	8,777	3,467	6,249	1,940	1,275	2,286	3,364	7,216
1997	35,805	1,049	339	8,677	3,271	6,243	1,941	1,257	2,475	3,324	7,230
1998	35,860	1,024	304	8,644	3,183	6,284	1,920	1,272	2,581	3,210	7,436
Change	-188	-139	-55	-563	-195	96	-111	-22	421	189	565
% change	-0.5	-12.0	-15.3	-6.1	-5.8	1.6	-5.5	-1.7	19.5	5.6	8.2

Source: Statistisches Bundesamt.

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MANAGERS OF CO-OPERATIVE CHANGE – TESTED IN CONFLICT

Free collective bargaining and co-determination are the two pillars of industrial relations in Germany. They can complement one another effectively in the face of major economic and social changes. However, for this process to work the participants must show a degree of co-operation that both employers and unions from Anglo-Saxon countries find incomprehensible and objectionable. Nevertheless the points of contact between the Anglo-Saxon and German systems are increasing and an exchange of views between the two sides is overdue.

In trying to explain German co-determination to the Anglo-Saxon reader it is not enough simply to deal with the legislation, which lays down the rules for the way employees can exercise influence at plant level, in companies and in public bodies. Because in Britain and in the USA, to name the two most important countries, people think in terms of a “collective bargaining system” where the unions have control of the role played by employees in industrial relations. The employer-employee relations are dealt with exclusively through collective agreements, whose results are determined by each side’s own ability to engage in conflict and the strength of the opponent.

The German method with its legal guarantees for employee rights can in Anglo-Saxon terms only be understood when the co-operative element (co-determination) is seen alongside the more conflict oriented element (collective agreements). Unfortunately until the 1980s Germans scarcely referred to the linkage between these two. The result was a lengthy period of mutual incomprehension, which prevented those points of contact and common problems being seen.

These failings can, however, be overcome. The history of how the system has developed can explain why the state, legislation and the development of law have been so important for industrial relations in Germany. Looking at the connections between co-determination and collective bargaining can show how these two different approaches can be used together productively. And the changing emphasis given to the various levels of co-determination makes clear how the system adapts to cope with new problems – problems that the Anglo-Saxon system also faces.

THE HISTORICAL ROOTS

In the second half of the nineteenth century as the trade union movement emerged along with industrialisation in a repressive and authoritarian monarchy there were two overriding goals.

- a) The working class together with the unions, who at that time were harassed and persecuted, could only develop in a political democracy. As a result the unions, particularly the socialist unions working closely with the socialist parties, fought for a democratic state which through its legislation would deliver freedom, equality and social justice. This basic political belief explains why the German unions after 1918, after the overthrow of the monarchy, saw the parliamentary democracy of the Weimar Republic as their state. And this is also, in the last resort, the reason for what foreign observers describe as the law-based nature or the “legalism” of German industrial relations.

In addition to political democracy but as an analogy to it the unions favoured a concept of economic democracy. This was to be established at national level, to have an institutional basis and a system of representation and was intended through legislation and state intervention to lead to the emancipation of the working class. The view of the trade unions at that time was of a “top-down” reform of society and the economy. In 1920 the unions accepted a law establishing works councils with limited rights in personnel, economic and social issues. But this was only done unwillingly, and following the pressure from the councils’ or soviets’ movement (Rätebewegung), which for a short period during and after the First World War had a major influence in Germany as elsewhere. They continued to warn, however, against the dangers of “plant egoism” and “plant syndicalism”.

- b) The second line of development, the emergence of collective agreements, took a different course. It emerged from the misery of early industrial working conditions and the industrial struggles that accompanied it. In this case an understanding of the need to secure improvements in wages, working time and working conditions came from the “bottom up”. The advances in collective bargaining depended on the willingness of union members to take action. This was tied to specific industries and independent of the state and legislation, which left the two parties involved in the negotiation a great deal of freedom in terms of how they organised their activities. Generally collective agreements were reached for all companies in an industry in a region, so-called “area collective agreements” (Flächentarifverträge), which effectively set minimum standards and did not permit special arrangements for particular plants.

Thus co-determination and collective bargaining ran parallel and unconnected with one another. The strength of collective bargaining lay in its closeness to the concrete problems of the employees and its ability to mobilise them directly, for example in strikes. The introduction of co-determination legislation depended on the aims and relative strength of the political parties as well as on the power of capital.

RIGHTS AND THEIR PRICE

The existence of these two separate policy areas side by side, something that is still noticeable today, was only possible because of the development of a sensible division of labour. The law on collective bargaining gives the negotiating parties wide freedom of movement in terms of the content of negotiations and only lays down a few basic procedural rules. The law, particularly labour law and the labour courts, protects the interpretation of free collective bargaining.

The co-determination of the employees and their unions is regulated much more tightly by the legislation both in terms of procedure and to some degree in terms of content, although it is important to distinguish between different levels. The plant or workplace level is governed by the "Works Constitution Act". (The "Personnel Representation Act" is its equivalent in the public sector.) The company level or business level is governed by the so-called "Co-determination Acts" (Coal and Steel Industry Co-determination and the Co-determination Act 1976 in private sector companies with more than 2,000 employees). In addition there are possibilities of influence beyond the workplace and in the economy as a whole, such as in the administration of social security, the labour administration, vocational training as well as in industrial and regional policy.

However, the crucial area for co-determination is certainly at plant and company level. Since the Weimar period the influence of the employers has ensured that the law places an obligation on works council members to work with the employer "in a spirit of mutual trust". Conflict with the employer can only be resolved using legal channels, through the conciliation committees or through the courts. The works council cannot strike, thus underlining the co-operative nature of its role. Similarly at company level, co-determination is tied into the existing legal structure. The employee representatives on the supervisory board are tied to the possibilities provided by a body whose role is to oversee developments. The labour director who is normally closest to the employee representatives has the same rights but also the same duties as every other director on the board. Co-determination means more rights, but it brings with it more duties. This is the price of legal regulation.

What emerges from this apparently separate and parallel existence of free collective bargaining and co-determination is their internal links. Collective bargaining deals primarily, if necessary through strikes and lock-outs, with the disputed questions of distribution – how the money is to be divided up. This is generally done through area collective agreements, setting minimum standards about which the works councils no longer need to argue. This leaves them to concentrate on solving specific plant issues, in the vast majority of cases in co-operation with the employer. On the other hand the trade unions are freed from involvement in plant structures. Collective bargaining and co-determination, which are linked through the policies of the unions, complement and support one another, as in both cases what is at issue is the representation of the interests of working people and their families.

FROM PARALLEL DEVELOPMENT TO A DYNAMIC TENSION

The relationships, which are presented here in a simplified form, are not static. In the Weimar period particular weight was laid on what was called “co-determination beyond the workplace”, in other words exercising influence at national and industry level. After the Second World War it was the co-determination at company level in the coal and steel industries which was central for a long period. And since the 1970s, with increasing rationalisation, the introduction of new technologies and other forms of work organisation, it is co-determination at plant level which has grown in importance. Collective bargaining has experienced a similar transition. Whereas until well into the 1960s it concentrated on pay issues, after that it was about humanisation and the content of work and, above all in the 1980s, working time, although here its closeness to workplace problems, grouped together under the heading of flexibility, became increasingly important.

But collective bargaining and co-determination are not just flexible in themselves in being able to take on board and shape changed economic and social realities. They are also intertwined. New solutions are often tried out in plant deals reached between the employer and the works council within the co-determination framework. If they prove successful they are then taken up by the collective bargaining parties (the unions and the employers’ associations) and secured in collective agreements, often at area level. Equally the collective bargaining parties can sometimes play a pioneer role in finding solution, which are then implemented at plant level in line with the specific conditions there. Examples here are the “Alliances for Jobs” on plant level or the introduction of time banking.

The system in its totality, and this is its strength, permits rapid feedback and linkage between the plant, the industry and the whole of the economy because at each level there is an institutional basis for systematic and professionally competent negotiations. Even unwilling employers can only escape the legal obligation to co-operate to a limited extent. Problems are dealt with where they occur, with a stabilising effect both socially and economically. There is no big bust-up.

But even with all its elasticity the whole system cannot be turned upside down. This is what would happen if collective bargaining were shifted to plant level, something some employers would like. Conflicts over income division could then no longer be decided above plant level using the final weapon of industrial action, because the works council is not permitted to strike. At the same time the works council would lose what is currently its strength, dealing with issues on a co-operative basis, if major conflicts were transferred to the plant level. A further consequence would be that the unions would lose not just their collective bargaining power but also the responsibility that comes with it, a scenario that no one who is interested in social stability, economic efficiency and peace in society could wish for.

THE ARGUMENTS OF THOSE WHO OPPOSE CO-OPERATION

This two channel or dual German system of industrial relations still appears strange to Anglo-Saxon thinking. Unions in countries which have only known collective bargaining as a way of regulating industrial relations do not want to accept that the employee representatives at plant level can act in a way which, at least formally, is independent of the unions. If the works councils perform effectively, could they not make unions superfluous? And if the majority of works council members are good trade unionists, as many Germans say, why is there a need for a special Works Constitution Act? And why does not the free market introduce co-determination and participation of its own accord, if, as again so many Germans claim, a company's efficiency and its capacity for innovation can be improved by everybody working together ("stakeholder value")?

As a result employers and trade unionists in Anglo-Saxon countries often, although for different reasons, continue to oppose co-operative elements in the system of industrial relations. They think in terms of conflict and opposing power groupings, which crystallise in collective bargaining from industry to plant level, whereby one side thinks it can only win at the cost of the other. But even American authors like Thomas Kochan express doubts as to whether a system which excludes co-operation and which opera-

tes with low levels of mutual trust can in future fashion a world where what counts is innovation, motivation and qualification.

So therefore it is no accident that even in the USA and the UK there are companies that operate with new forms of work organisation, work groups, teamwork or particular forms of human resource management. New realities emerge from actual practice but without changing the core of the system of collective bargaining. However, in academic as well as in trade union discussion some thinking goes further considering the possibility of writing into collective agreements the sort of plant level tasks, which German works councils undertake. Finally European Works Council members, including those in countries where such a system was previously unknown, are starting to gather experience, even if so far they only deal with information and consultation. German history shows that institutional innovations require a long learning process before they stabilise.

EUROPEAN LEARNING PROCESSES

Even as late as the 1980s German trade unionists had not recognised the connection between co-determination and collective bargaining. This attitude, which is explained by the long years of growth and full employment, led them to see almost exclusively the co-operative elements of the system and to view co-determination as something which could be exported and introduced in other countries.

It was the dramatic growth in rationalisation, job cut backs and competitive pressures together with the advance of a neo-liberal market philosophy after 1989 which made it clear how essential it was to have strong trade unions and members who could be mobilised. In the German system, as elsewhere, it is normally only after proving a capability for conflict, that it is possible to have influence as a partner for co-operation. And for this free collective bargaining is key point of reference. This is the common basis for both systems of industrial relations.

In any discussion about similarities and differences each side must try to understand the specific circumstances of the other. Only on this basis it is possible to learn from one another. There are several arguments in favour of this common process of discussion:

- We are living in a rapidly changing world. The slogans are globalisation and international competition, new management and capital strategies, new production systems and forms of work organisation, the reorganisation and reduction of the welfare state. How are such challenges dealt with in different countries? Where and which problems are resolved more through co-operation than through conflict? Is

intervening with force the only way to influence developments? These developments have a topical and practical importance. For one thing the question has been posed within the EU of what should be dealt with at national level and what at European? This has been largely answered for European Works Councils, but is still being discussed for the European Company. Decisions have also still to be made on procedures for information and consultation at national level. What is involved in all these issues is the introduction of binding EU-wide co-operative and consultative procedures which are independent of collective bargaining and as a result reinforce the elements of a dual system.

- Second, international competition means that there are increasingly points of contact between different national industrial relations systems, as when Daimler and Chrysler merge to form a single business, or when the Deutsche Bank, Telekom or Siemens co-operate or ally themselves with partners in other countries. In such cases representatives of the employees and their trade unions need to communicate with one another to decide how they want to deal with the consequences for those affected and to find concrete solutions to the problems. The pre-condition for this is a high level of information and consultation.

NEW CHALLENGES

Currently Germany faces two challenges which for the foreseeable future will be of overwhelming importance. In a situation of continuing mass unemployment how can the problems of work and employment be solved? And how must the existing institutions, including co-determination and collective bargaining be restructured in order that the interests of employees can be actively involved in this process of economic change?

In responding to these developments, co-determination and collective bargaining have for years been undergoing fundamental change. For Anglo-Saxon observers it is perhaps interesting to note that despite all the problems the significance of a legally regulated system of co-determination has never been seriously questioned. In particular the arrangements for works councils at the workplace together with co-determination at company level mean that there are possibilities of obtaining information, obligations to co-operate and rights to participate which permit a relatively stable and professional system of employee representation. This representation is broadly acceptable to employees, and representatives are increasingly involved in reorganisation, as this is the only way that employment can be actively safeguarded.

In this works councils have tried-out a wide variety of methods, particularly in the area of working time developments, which, however, have always been linked to increasing flexibility in the way people are employed. In return they have, in the most favourable cases, got employers to agree not to introduce redundancies for a specific period of time. This role requires works council members to be highly skilled in their negotiations with the employer. At the same time they have to develop new forms of co-operation with the workforce, because, as a result of internal restructuring, a wide range of systems of direct participation, particularly group work, have grown up. In this way the formal representative and institutionally based co-determination has got a new participative dimension, even where the employer simply tries to use it as an instrument to raise efficiency.

However, all these developments are only possible where there are works councils and that is generally only in medium and large-sized companies. But as the number of small enterprises, which have the biggest growth in employment, increases, a dangerous "co-determination free zone" is beginning to emerge. Half of all German employees are in this area in which the unions are particularly weak and where there may not even be collective agreements.

INNOVATIVE ANSWERS

Developments in collective bargaining have been second only to the issues of work and employment in influencing co-determination, despite the fact that for so many years the two ran side by side completely separate from one another. Under the slogan "workplace-level bargaining" German unions have in a long and painful process allowed what were previously uniform arrangements in area collective agreements to be adapted to the specific circumstances of individual plants. The details of this "opening up" of the agreements have to be settled between the employer and the works council. This increasing flexibility in collective bargaining policy, leaving the precise details to be worked out at plant level, is probably the most far-reaching innovation in industrial relations in Germany in recent years. In safeguarding jobs and developing employment strategies industrial relations have gained a longer term perspective, which is closely linked to company strategy, and which has an equal impact on jobs, where plants are sited, systems of production and investment. Reaching deals in this way can no longer be fitted in to the traditional definitions of conflict and co-operation. It is a new development, which is both linked to specific interests and participative, and which by its very nature requires ever-increasing management skills.

As it is obvious that markets, companies and the two parties to collective bargaining cannot alone combat unemployment effectively, the “red-green” German government, the unions, and, somewhat hesitantly, the employers have backed an “Alliance for Jobs”. In the long term this is intended to create more employment through a co-operation of private companies and public policy. There is government financial support for cutting back youth unemployment, for reducing the on-costs of employing people, which in Germany are particularly high, and for encouraging more employment in the service sector. As such measures must also be implemented within companies, co-determination and collective bargaining policy will have to extend their area of operations. If they both continue to adapt to economic and social change then there is still a good chance that this process can be influenced in the interests of the employees.

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‘FORUM FOR CO-DETERMINATION AND COMPANIES’

In May 1999 the Hans Böckler Foundation and the Bertelsmann Foundation formed the Forum for Co-determination and Companies. This follows on from a major investigation into co-determination practice in companies in Germany, which aroused considerable interest and was produced by the Co-determination Commission in 1998. The new Forum aims to draw attention to examples of co-operative modernisation in German companies where the ideas and institutions of co-determination have been successfully used to adapt to new competitive conditions.

At the same time the problem areas identified by the Co-determination Commission will be explored in discussions with both employers and employees in order to counteract the growth of “co-determination-free zones” in Germany: in places where co-determination has never really been at home, i.e. small and medium-sized companies and in places in which co-determination risks losing ground through the introduction of new forms of organisation, in decentralised and international corporations.

The Forum is a pilot project. After two years the extent to which the state, employers associations and trade unions are willing to take over the continued sponsorship of the Forum will have to be decided. There will also be recommendations on the political measures needed to foster co-operative corporate restructuring; and how the whole system of co-determination system can be developed.

Further information about the Forum, please contact norbert-kluge@boeckler.de or axel-hauser-ditz@boeckler.de

For the summary and the recommendations of the Co-determination Commission see www.boeckler.de or www.mpi-fg-koeln.mpg.de

*Jesper Due, Jørgen Steen Madsen,
and Nikolaj Lubanski
Translated by Seán Martin*

NORDIC LABOUR RELATIONS: – BETWEEN NATIONAL AUTONOMY AND EU INTEGRATION

1. INTRODUCTION

The Nordic trade union movements have reached a defining moment. One of the most urgent challenges facing them is the impact of the European Monetary Union (EMU), which has a tendency to boost social integration, possibly even leading to actual co-ordination of collective bargaining and the harmonisation of tax policies and welfare schemes. There are signs that the trade union movements are facing a dilemma – a choice between a) the need to maintain national sovereignty, so as to safeguard the special characteristics of the Nordic labour-market and welfare models and b) a desire for further EU integration, so as to promote the EU as a welfare project with a sharper focus on Social Democrat policies and employment issues.

The Nordic countries are often perceived as a bloc that exploits cross-border co-operation to stabilise and defend the Nordic collective bargaining and welfare models. It should, however, be noted that this co-operation is based primarily on pragmatism, not on pan-Nordic strategic goals. In practice, co-operation has probably been exploited to promote common Nordic interests, but there has been no consistent, ideology-based solidarity aimed at defending special Nordic values. The misconception can be attributed to the frequent references to the “Nordic model”, ignoring the wide national differences in labour-market regulation, and in the international placing of the Nordic countries, whether in the political or economic sphere.

Thus, it cannot be taken for granted that the Nordic countries will prove capable of reaching a common stance on the choice between the Nordic and European imperatives. On the contrary, an analysis of the countries’ different points of departure suggests that they may make different choices, and that the differences between them may become even more pronounced. Though the countries may continue to co-ordinate their positions, maintaining the same pragmatic approach, an erosion of Nordic co-operation cannot be ruled out.

In this chapter we analyse – from a Danish perspective – the pattern of development in Nordic trade union co-operation, viewed in relation to the process of EU integration. In section 2, we discuss the choice faced by the Nordic trade unions, especially Denmark's – a choice between national autonomy and EU integration. Section 3 is an analysis of a) the shifting, albeit still different, placing of the Nordic countries in relation to EU co-operation, and b) the significance of the differences in the Nordic countries' labour-market models – despite the many common features. Subsequently we address, in section 4, the development of co-operation between the Nordic trade union movements via NFS, the Nordic Council of Trade Unions, from 1972 to 2000, before presenting some concrete examples of their behaviour vis-à-vis the EU.

The first example, in section 5, is the attitude towards the Danish implementation of the directive on working time via collective agreements, which is currently (March 2000) being challenged by the EU Commission. The second example, in section 6, focuses on the reactions to the steps taken by the Portuguese presidency of the EU in March 1999 to introduce majority voting in a greater number of areas of social policy and labour-market regulation, in connection with the intergovernmental conference on a new EU treaty intended to pave the way for enlargement of the Union.

Can an analysis of these events produce an adequate basis for any valid predictions of the likely future role of the Nordic trade union movements? Will Nordic solidarity gradually disintegrate, or will it develop into a joint pressure group, capable of promoting common interests at European level? In the concluding section 7 we offer a preliminary answer.

2. THE DIFFICULT CHOICE

Is the dilemma real? Are the Nordic trade union movements really forced to choose between national sovereignty and the desire for stronger and more socially-oriented EU regulation? Yes, because the Nordic countries have adopted – and institutionalised – a special form of labour-market regulation which can be undermined if the relevant parties decided to abandon narrow national interests in favour of EU regulation. In this context, the specifically Nordic dimension refers to a) the *collective bargaining model*, i.e. self-regulation by the labour market organisations, and b) the financing of general welfare schemes (social security, etc.) from tax revenues. In what may be referred to as continental European countries, the main emphasis is on political regulation of the labour market, combined with specific welfare schemes based on labour market participation. (Esping-Andersen 1990).

Here the focus is on labour-market regulation, because it forms the core of the problem addressed in this article and because it is our main area of research. As we shall see, there is a marked difference between Denmark and the other Nordic countries with respect to this particular issue: the significance of self-regulation by the labour market organisations in relation to the role played by the political system. Initially, we shall thus discuss this choice solely in relation to the Danish collective bargaining model.

The embryonic regulation of labour-market conditions at EU level has been conducted mainly by applying legislation, i.e. a political solution. This is partly because it is the typical model in the EU's member states, and partly because the EU is essentially a political construct. Obviously, a form of regulation developed via the EU's institutions will – ineluctably – also be political. The creation of a form of regulation based on collective bargaining – where the interests organisations, as in Denmark, themselves reach agreement on labour-market conditions – would require sweeping reforms (Strøby Jensen 1995).

Nonetheless, a major step was taken in this direction with the conclusion of the “31 October 1991 Agreement” and the adoption of the Social Protocol in connection with the Maastricht treaty. This move paved the way for the conclusion of collective agreements between the parties at European level. There is, however, one important snag; these collective agreements may well determine the content of EU regulation, but regulation is to be enforced via directives, i.e. as legislation.

At the same time, it has become possible to implement directives on labour-market conditions at national level via the collective bargaining system (Dølvik 1994 and 1997, Strøby Jensen et al. 1994). This was a decisive factor in shaping the positive attitude of the Danish trade union movement to the Social Protocol and the Maastricht treaty. The document and its protocol could be interpreted as ensuring the survival of the Danish collective bargaining model, and – applying an even more optimistic interpretation – there was the longterm prospect that EU labour-market regulation, exploiting the potential of pan-European agreements between the labour-market parties, would bear the imprint of the Danish model, at the expense of the continental European model, based on legislation.

The adoption of the Social Protocol led to a comprehensive reappraisal of the Danish trade union movement's EU policy. Throughout the campaign on EU membership in 1972 and for nearly two decades following accession, the Danish trade unions and employer associations adhered firmly to their slogan: “We ourselves will deal with any problems that arise.” Labour-market regulation was to remain a purely national affair (Due et al. 1992). But – with the introduction of the Single European Act (the Inner Mar-

ket) – this viewpoint became increasingly untenable in the latter half of the 1980s. Europeanisation of the economy reduced the role of domestic markets, leading to European regulation of the labour market. This development persuaded the Danish trade union movement – with the reluctant support of Danish employers – to accept the “Eleven Countries Agreement”, thus paving the way for a limited form of European regulation. What made it acceptable was that here was a form of regulation where neither the level nor the scope posed a threat to the Danish collective bargaining model.

These developments – which could be interpreted as safeguarding the core element of the Danish model, or even as using it, to some extent, as the basis for a form of EU regulation – made it possible for the Danish trade union organisations to avoid the difficult choice outlined above. EU integration had not reached the stage at which it might pose a serious threat to the Danish collective bargaining model. The model remained intact, while in the areas that did not “interfere” with Danish conditions the unions were now in a position to support an expansion of EU regulation, including more tangible employment-policy commitments for the EU in general and the EMU in particular.

Notwithstanding, in recent years developments in the EU seem to have exerted a growing pressure on the Danish collective bargaining model. Admittedly, the Social Protocol was incorporated in the Amsterdam treaty, retaining both applications of the collective agreements (i.e. as a basis for directives and as a means of implementing directives). And Sweden – in connection with the accession of Sweden, Finland and Austria to the Union – was granted the right to implement directives via the collective agreements. But the collective agreement mechanism has been used only to a very limited extent at EU level, partly on account of employer opposition to a collective bargaining institution at EU level. And now doubts have been raised with regard to Denmark’s use of the mechanism when implementing the directive on working time. The pressure on the Danish model has come from the EU Commission, in its initial communication, which was based on complaints from the very small alternative trade union movement in Denmark, which – on aggregate – represents less than 5 per cent of all unionised workers.

The essence of the problem, as defined, is that the collective agreement solution fails to provide an adequate guarantee that *all* workers are covered by the directive’s rights. We shall revert to this issue later, but at this point it should be noted that the Danish parties of the collective bargaining system regard the situation as a very serious problem, as constituting a direct threat to the Danish form of labour-market regulation – that is if the Commission, having considered the reply submitted by the Danish government, decides to bring a case against Denmark.

At the same time the EMU has exerted further pressure, urging harmonisation or at least the adoption of minimum standards in two vital areas: labour-market policy and social policy. The proposal submitted by the Portuguese presidency to introduce majority voting in new areas must be considered against this background. The proposal, which emerges as a logical consequence of the introduction of the euro, and the possible rejection of the implementation of directives via collective agreements place the Danish trade union organisations in a difficult situation. On the one hand, they are in favour of the EMU, and have recommended an unambiguous Yes for the referendum on Danish accession to the EMU on 28 September 2000. But on the other hand, they want to retain the Danish collective bargaining model, which risks being undermined by continued European integration (Strøby Jensen et al. 1999).

The dilemma is further complicated by the proposed enlargement of the EU, which is supported by the Nordic countries. If integration is not brought a stage further by the introduction of majority decisions in new areas pertaining to social- and labour-market policies, there is the risk that enlargement will lead to social dumping. If majority voting is rejected, the new member states will have a veto right, and this mechanism can prevent the introduction of minimum provisions on labour-market conditions, thus making social dumping a distinct possibility. An open EU may imply acceptance of majority decisions, but this development may in the longer term undermine the Nordic collective bargaining and welfare models.

The trade union movement could then decide to apply all its resources to the goal of retaining national sovereignty, thus safeguarding the special features of the Nordic labour-market and welfare models. But the choice is far from easy, because in selected areas the trade unions also favour closer EU integration. And if they oppose or impede further integration of labour-market policy, the result may be that the EU chooses an entirely different course, pursuing goals unacceptable to the Nordic trade union movements. If this is the outcome, there will be no talk of promoting the EU project as a vehicle for the advancement of Social Democrat policies, focusing on employment issues and welfare. Instead, the EU and EMU will develop into a liberal-oriented monetary union, where economic stability will have a higher priority than employment considerations and economic liberalisation will receive more attention.

The problem is that internationalisation – including further economic and political integration in the EU – will inevitably have an impact on the Nordic countries, whatever path they choose. This is one of the main arguments adduced to support Denmark's accession to the EMU: irrespective of membership of the EMU, Denmark

will be forced to comply with economic policy, i.e. it will have to meet the convergence criteria imposed on the EMU countries. Denmark might even have to exceed the requirements, displaying a heightened sense of responsibility and becoming "more Catholic than the Pope". This suggests that Denmark might as well participate, with a view to gaining influence on the decisions which it will – in any case – be compelled to implement.

Of course, Denmark can opt for national autonomy in the area of labour-market and social policy. But Danes cannot expect that the situation will then remain unchanged. If, on the other hand, Denmark supports EU integration, this support might help to ensure the continued existence of an EU that pursues – at economic and political levels – a course focusing on employment issues. But the same caveat applies: support for integration may undermine the special Nordic methods of regulating the labour market and the welfare system.

The implications for the Danish model are real. If the requirement that all workers are to be covered by the political directives means excessive supplementary legislation, this will drastically alter the balance between collective agreements and legislation in the Danish model. This, in turn, will reduce the influence of the labour-market organisations, and the trade unions in particular risk losing members. Why join a union if you are already entitled to the rights via legislation? In this context, it should be noted that trade union membership and the rate of unionisation have remained high in the Nordic countries, while in most of the other EU member states the numbers have been shrinking for about 20 years.

The outcome may well be that – despite a weakening of the existing organisations and institutions – the Nordic countries too will acquire a new form of labour-market regulation that can function satisfactorily. But how can one safely predict the outcome at this stage? The only certainty is that the existing institutions risk being eroded, leading to a period of uncertainty and an increased risk of problems and disputes. This explains the desire of the Danish labour-market organisations and Danish politicians to ensure the survival of the Danish model. Obviously, the organisations would welcome a solution that at the same time protects them from any changes that might reduce their power and influence.

The developments outlined above suggest that the parties in the Danish labour-market model are attempting to wriggle out of the dilemma by refusing to make a choice. But the crucial question remains unanswered: will it still be possible, despite recent developments, to have the best of both worlds? At this juncture (March 2000) the problem seems to be insurmountable.

3. NATIONAL DIFFERENCES IN POINTS OF DEPARTURE

It can be argued that from 1972 until the mid-1990s, the question of EU labour-market regulation was a matter to be discussed (in a Nordic context) only by the Danish trade unions, as Denmark was then the only Nordic member of the EU. But as the other Nordic countries were also – to a large extent – influenced by EU development, because trade unions from both member states and non-member states were members of the European Trade Union Confederation (ETUC), there was close co-operation between the Nordic countries right from early-1970s. And as these countries – viewed from a distance – have many features in common, they are often regarded as forming a Nordic bloc, with a unified approach to promoting special Nordic interests and defending the Nordic labour-market model.

All the Nordic countries have forms of labour-market regulation featuring strong trade unions and employer associations, with high rates of unionisation (workers) and membership (employers) and thus extensive coverage by the collective agreements. Another common feature is a high degree of self-regulation, where the parties enjoy a large measure of autonomy in relation to the political system with regard to decisions on the labour market. Regulation is effected via collective agreements and a collective labour court system. This dispute settlement system, which is backed by legislation, was established via co-operation between the political system and the labour-market organisations. Moreover, tripartite co-operation on general socio-economic issues and on all issues of direct relevance to the labour market has evolved. Further, although all the Nordic countries conduct highly centralised collective bargaining, there is also multi-level regulation, i.e. representation of the parties and negotiations at workplace local level, along with central bargaining (at branch and national levels).

In recent years in the Nordic countries – and in other countries – the collective bargaining has been conducted, to a varying extent, at decentralised level, although still within the limits imposed by overarching framework agreements. This is the process we have designated *centralised decentralisation*, while other researchers refer to it as co-ordinated decentralisation or “organised decentralisation” (Due et al. 1994, Traxler 1995).

There is thus some justification for referring to a common Nordic labour-market model with self-regulation as the bearing principle (Bruun et al. 1992, Gudmundsson 1993, Kjellberg 1998), but when the models are studied at closer quarters in a narrower Nordic perspective, the differences become apparent (Skulason and Jääskeläinen 2000, Dølvik 1999). In this context, one of the major differences is the difference between the self-regulation practised by the labour-market organisations and the role of the relevant political system. This difference looms large if one compares the emergence and

development of the Swedish and Danish IR models. The comparison shows that the Danish collective bargaining model is regime-independent, whereas the Swedish model is to a higher degree regime-dependent (Due and Madsen 2000).

The balance of political power in Denmark has consistently made it impossible for the trade union movement, when promoting workers' interests, to achieve more influence by focusing on legislative solutions in defiance of relations with the employer counterpart. Admittedly, the Social Democrats have been the leaders of several governments since the late 1920s up to the present date, but the party has never had an overall majority in parliament, and has thus had to rely on the support of centrist (and left-wing) parties. The labour market organisations have thus decided to make themselves independent of political constellations, choosing instead to work together to achieve the highest possible degree of self-regulation and to maintain the principle that amendments to the supplementary legislation are passed following consultation with – and agreement between – the labour-market organisations. This feature – the very high degree of voluntary self-regulation – distinguishes the Danish collective bargaining model from the IR systems in the other Nordic countries (Skulason and Jääskeläinen 2000, Grønli 1999).

In Sweden, for example, since the 1970s comprehensive framework legislation has been passed on labour-market relations. This form of statutory legislation has been shunned by the Danish parties, with the exception of single groups (white-collar workers and civil servants). This emphasis on self-regulation via the conclusion of voluntary collective agreements is – especially from the viewpoint of the parties themselves – a cornerstone of the Danish model, and an insistence on retaining the collective agreement component is thus regarded as an inalienable prior requirement for the maintenance of effective regulation of pay and working conditions in Denmark. In recent years, this striking difference has been, as we shall see, the single factor that explains why Denmark's reaction to the challenges of increased EU integration differs from the reaction of the other Nordic countries.¹

Among other differences between the Nordic models are Norway's retention of powerful main organisations (unions and employers confederations) and thus its higher degree of centralisation of collective bargaining. Denmark has retained a distinct consensus-based relationship between workers' and employers' organisations, both at

1 Trade unionists in the other Nordic countries concur with this assessment of the special feature of the Danish collective bargaining system: "In Denmark, for example, there is a tradition whereby the labour-market parties have always assumed responsibility for development, whereas in Norway and Sweden both parties and the authorities have contributed to this development." (Grønli 1999, p. 8). "Denmark is the extreme case where the social partners play a dominant role in ruling the labour market, mostly without legal regulation by the state." (Skulason and Jääskeläinen 2000, p. 3).

central and branch levels, and thus extensive representation for the parties on committees, commissions, boards, etc. In Sweden, however, representation of the labour-market parties suffered a blow in the early 1990s, when the more ideology-driven Swedish employers withdrew their representatives on a large scale (Dølviik 1994, Strøby Jensen et al. 1994, Due et al. 1994, Kjellberg 1998).

It should be noted that – apart from the differences in the collective bargaining models outlined above – the response of the trade union organisations is to a large extent also determined by the Nordic countries' different *geographical and political placing*. Though many attitudes and viewpoints are shared across national borders in the Nordic region – covering labour-market conditions, the development of the welfare systems and economic policy – it cannot be taken for granted that the countries will pursue the same course at international level. These differences in international placing explain why it has never proved possible – in a Nordic context – to develop any sort of federal state. And it also explains why the Nordic countries have adopted very different positions with regard to the development of European co-operation.

For example, during the earliest stages of European co-operation Denmark and Norway had the closest relations with the then EC (6 member states), because these two countries were part of the broader pattern of Western co-operation, via defence policy commitments. In the late 1940s, Norway and Denmark – unlike Sweden and Finland – decided to join NATO. It was thus quite natural for Denmark and Norway to apply – in the early 1970s – for membership of the EC.

Figure 1: Placing of the Nordic countries in relation to the EC/EU 1970-2000

<i>Before 1972</i>	<i>From 1972</i>	<i>From 1995</i>	<i>2000</i>	<i>2001?</i>
<i>EEC: –</i>	<i>EEC: DK</i>	<i>EU: DK, S, SF</i>	<i>EMU: SF</i> <i>EU: DK, S</i>	<i>EMU: SF, DK</i> <i>EU: S</i>
<i>EFTA: DK, N, S, SF</i>	<i>EFTA: N, S, SF</i>	<i>EEA: N</i>	<i>EEA: N</i>	<i>EEA: N</i>

At that time (early 1970s) Swedish membership of the EC was precluded by its neutrality policy and its commitments to Finland, while Finland could under no circumstances join because of the pressure exerted by its neighbour – the then USSR. During the entire post-war period, Finland had to behave as a minor state in relation to its powerful neighbour. The USSR opposed every Finnish move to join the Western alliance. Fin-

land was thus subjected to heavy pressure when there were plans to establish close economic co-operation between the Nordic countries under the projected NORDEK. At the time, many regarded NORDEK as an alternative to the EEC – or at least as a forum for co-operation capable of boosting the political and economic role of the Nordic region in Europe. It was only when the NORDEK project had to be abandoned that conditions in Denmark and Norway reached the stage where membership of the EC became feasible. The referendums were held in 1972; Denmark voted Yes and joined the EC in 1973, Norway voted No.

Denmark's Yes can be attributed to an economy-driven, interest-based alliance between the parties in industry, agriculture and fisheries, providing both liberal and Social Democrat support for the project. Norway's No can be attributed to its pattern of agriculture and fisheries, which have their bases far from the urban concentrations. On both political fronts – liberal and socialist – Norway's farmers and those employed in the fisheries industry were highly sceptical of European co-operation and its obligations. The result was that for the next 20 years or more, Denmark was the only Nordic member of the EC, which gradually admitted new members and changed its name to the European Union.

It was only when the cold war came to an end with the implosion of the Soviet Union that Sweden and Finland, where new attitudes now prevailed, decided to join the EU – on 1 January 1995. Norway again voted in favour of isolation from the European project, although via its participation in the European Economic Area (EEA) it is also covered by the Inner Market provisions and by EU labour-market directives.

The EMU was launched in the late 1990s, although Finland was the only Nordic country to board the train at the first station on the route. This too was a decision based on geopolitical considerations. Finland had finally wrenched itself free of the Soviet "bear hug" and wanted to become integrated as soon as possible, with the strongest attainable position, in European co-operation. The aim was to become capable of withstanding any new pressure and subsequent dependence – if the giant neighbour showed any signs of wanting to regain its former position of power and influence.

Following Denmark's No at the referendum on the Maastricht treaty in June 1992 and the subsequent Yes at the new referendum in 1993 – against the background of the four so-called "opt-outs", including the right to remain outside the EMU – there was still widespread scepticism in Denmark with regard to political co-operation. In Sweden too, the level of scepticism with regard to the EU ruled out any attempt to join the EMU with immediate effect. The outcome was that Finland assumed Denmark's role as the leading Nordic country in EU co-operation.

The situation remained unchanged in Denmark until the early months of 2000. It has been made even clearer that Denmark is forced to comply with the economic policy laid down within the framework of the EU, but without any influence on the decisions taken. Both the government parties (led by the Social Democrats) and the major liberal parties are now of the opinion that the stage has been reached at which the Danish reservation with regard to the EMU must be revoked. There is thus to be a referendum on accession to the EMU on 28 September 2000. At the time of writing, it is impossible to predict the outcome. There is still some hostility towards the EU among Danish voters, and this can prove to be the decisive factor – although the EMU itself enjoys the support of the entire political establishment.

In Sweden, a Social Democrat congress adopted a proposal to vote Yes to Swedish accession, but only following a general election and a referendum on the issue. The Swedish scepticism seems to be greater than Denmark's. This may explain the intention to postpone Sweden's referendum until Denmark has voted on the issue. It thus seems that Finland may soon be joined by Denmark at the core of EU co-operation, and if this happens, the Swedes will probably follow suit. On the other hand, it is doubtful if Norway will join the EU in the foreseeable future. For the time being, Norway is restricting its involvement to purely economic co-operation via the EEA. This position is tenable for Norway, especially on account of its earnings from the large oil reserves, which have made Norway the richest country in the Nordic region.

The survey presented above describes the changing positions of the Nordic countries vis-à-vis the EC/EU, and as the different placings are likely to exist for some years, it can be assumed that the differences will continue to generate variations in the choice of policies made by the national trade union movements. They will also have an impact on the opportunities inherent in Nordic trade union co-operation.

4. DEVELOPMENT OF NORDIC TRADE UNION CO-OPERATION

In view of the differences in international economic and political placing and of differences in the labour-market models (despite the obvious common features), it is highly inaccurate to refer to the Nordic trade union movements as a single bloc, united by a common ideology. Regrettably, this misconception is often found in other EU member states. The co-operation between the Nordic trade unions in the Nordic Councils of Trade Unions, NFS, is based on pragmatism, not ideology. Since its formation in 1972, its main function has been to serve as a co-ordinating body for joint Nordic representation

in international organisations. It can be regarded only to a limited extent as acting as a common protector of special Nordic values (Interview no. 1).²

It can be argued that the existence of the EC triggered co-operation between trade union organisations – also in countries that had not joined the community. This interpretation suggests that EC/EU co-operation has been the dynamo in European development since the 1950s. It was thus characteristic that when choosing a location for co-operation between the seven EFTA countries, the modest joint secretariat was placed – yes – in Brussels, where it had no official business to conduct. When NFS was formed in September 1972, it too directed its focus on Brussels. And it did so just before the Danish and Norwegian referendums on accession to the EC. Then, as Denmark was the only country to vote Yes, NFS concentrated more on internal Nordic matters, although it continued to serve as a forum for co-ordination of other international work carried out by the Nordic trade union movements (Interviews nos. 1 and 3, Skulason and Jääskeläinen 2000).

It should be noted that – prior to the formation of NFS – Nordic co-operation was informally co-ordinated, for the very simple reason that only one Nordic country could be represented on the Executive Committee of the International Confederation of Free Trade Unions (ICFTU). The solution was to introduce rotating representation, with preliminary meetings at Nordic level and exchanges of information. This pragmatic form of co-ordination later became NFS' *raison d'être*, and was reinforced by the development of trade union co-operation at European level. The ETUC, formed as early as 1973, admitted as members trade union organisations from the EC member states and from other West European countries. During the early phase, Germany's DGB wanted to restrict membership to the trade union confederations of the two new EU member states, UK and Denmark, but Denmark's LO – in particular – succeeded in extending the scope of membership to form a broader European organisation. This meant that the entire Nordic trade union movement was admitted – as single members, not as a bloc. And here again – as in the case of ICFTU – there was only one seat on the ETUC's Steering Committee for the Nordic trade union movement. The same solution was adopted – rotating membership, with co-ordination and information via preliminary meetings, report meetings, etc. It is thus possible to trace a direct connection between the formation of NFS in 1972 and the formation of the ETUC in 1973. NFS was used to ensure a co-ordinated Nordic stance in relation to the ETUC (Interviews nos. 2 and 3).

2 In connection with this chapter we have conducted some interviews with key executives in Sweden's and Denmark's main trade union confederations, focusing on the relationship between Nordic and European co-operation. For further details, please see under *References*.

As pointed out above, the main purpose of co-operation in NFS is to attend to practical matters, based on a realisation that the single Nordic country is too small and too remote to exert any real influence on its own. But when the countries pool their resources – usually sharing representation and acting in unison – then NFS emerges as a bloc with considerable clout, as an organisation representing 8 million workers. Taken together, the Nordic trade union movements rank among the top three – coming just after the UK and Germany.

The decision by Denmark's LO to fight for admission of the other Nordic countries to the ETUC was not based on idealism, but on a simple recognition that on its own Denmark could achieve little influence at the organisation's top levels. To gain any real influence, the other Nordic countries would have to become members (Interview no. 1).

NFS was thus from the outset a forum for discussions on European trade union co-operation and European development. But in terms of content, in addition to co-ordination of matters pertaining to the ETUC and ICFTU, the focus was on promoting Nordic co-operation, e.g. on the working environment, worker representation (Works Councils, etc.), workplace democracy and employment policy. In the late 1980s – when the Single European Act had created a new dynamic in EC co-operation – NFS concentrated its efforts in other areas, in which developments in the EC/EU gradually assumed total dominance. For example, work on health and safety (working environment) and employee representation in Nordic enterprises was now to be conducted, wholly or partially, at pan-European level (Skulason and Jääskeläinen 2000, Interview no. 1).

NFS has developed into a broad co-operation structure, with all the main organisations as members, i.e. not only the traditional national confederations covering skilled and unskilled workers, but also trade union groupings for white-collar workers, civil servants and graduates (apart from Norway, where 2 out of 4 employees are affiliated with neither NFS nor the ETUC). And all these organisations are members of the ETUC, which gradually admitted organisations across hitherto insurmountable political and religious divisions, i.e. both the Social Democrat organisations, which had earlier dominated the "free trade union movement" and the Communist and Christian groupings.

NFS has its headquarters in Stockholm – a modest secretariat. But during the 1990s, when EU policy became the predominant issue, Brussels became the hub of Nordic trade union co-operation. All the Nordic LO organisations (with the exception of Iceland's) have an office in Brussels, where there is daily formal and informal co-operation between the secretariats. This co-operation has led to a form of work-distribution, where – for example – Denmark does most of the work involved in social and basic rights, along with the labour-market directives, while Finland's LO, on account of Fin-

land's term of office in the presidency, pays most attention to developments in the EMU. The organisations pool their knowledge, expertise, information, etc.

As there is only one Nordic member of the ETUC's Steering Committee, this requires extensive co-ordination and reporting. This need also exists with regard to meetings of the Executive Committee, even though all the Nordic countries are represented. Prior to these meetings, discussions are held at executive level, i.e. by the non-elected employees at the secretariats, with a view to identifying common interests. Positions are subsequently co-ordinated at meetings of the chairpersons of the different organisations. The usual practice is that one or two Nordic representatives attending the relevant meeting present the Nordic viewpoint. But divergences in the Nordic viewpoints are not unusual, and in such cases the single viewpoints are expressed, although these differences need not be perceived as indicating a rift in Nordic solidarity.

Even in cases where the Nordic countries differ in standpoint, close co-operation is regarded as an advantage, because the prior coordination and later follow-up make it possible to pinpoint the root cause of the divergence. This was the case when, for example, the Finns adopted a position at variance with Denmark's with regard to the directive on working time (Interview no. 1). Moreover, there is a general impression that since 1995, when both Finland and Sweden joined the EU, co-ordination has become more highly developed and more systematic (Skulason and Jääskeläinen 2000, Interview no. 2).

The greater emphasis on European co-operation was not solely directed towards the EU; there was also a *Baltic dimension*. After the fall of the Berlin wall and the implosion of the USSR, steps were taken to increase co-operation between the countries on the Baltic Rim. This work was given a high priority by the Nordic countries. In particular, the steps taken to contribute to the stabilisation and democratisation of the three Baltic states – Estonia, Latvia and Lithuania – were given a high priority. This development had an impact on NFS, which altered its structure in 1992 so as to focus on three areas: EU development, Baltic co-operation and internal Nordic affairs (Interviews nos. 2 og 3).

In relation to the EU, involvement was not restricted to the three Nordic member states (Denmark, Finland and Sweden); Norway and Iceland also became more closely involved in European co-operation via the EEA. All five Nordic countries were thus covered by the provisions of the Inner Market and the Social Dimension, thus strengthening joint European efforts. It was thus characteristic that NFS conducted close joint co-ordination of the national positions prior to the ETUC congress in 1995, where the Nordic solidarity was strengthened when defending the retention of two vice-general secretaries, as this solution would offer the best possibilities of continuing to have the Nordic representative in the Steering Committee elected as a vice-general secretary.

Once more, it is the fear of marginalisation that constitutes the driving force in Nordic co-operation. The same mechanism can bind the national trade union movements closely together in connection with the enlargement of the EU, because the admission of the new member states can lead to a restriction on the number of participants, and the introduction of joint representation in both the ETUC and the various EU organs, where the trade union movement is represented. This could lead to the exclusion of the smaller countries, unless they decide to co-operate. (Skulason and Jääskeläinen 2000, Interview no. 1).

Another important joint project for NFS was the development of common negotiating rules for European collective agreements, i.e. the rules of the game for internal process in the ETUC, with the drawing up of fixed procedures for transferring voting rights from national to international level. Following protracted Nordic pressure, agreement was reached on these rules in the ETUC in 1996. The rules gave the European main organisations a strong co-ordinating role. In NFS, full agreement between the Nordic trade unions on this issue is seen as a prior requirement for implementation of the rules, and is thus considered as a unique example of a situation where the NFS members can achieve impressive strength – as long as they continue to act and speak in unison. Implementation of the rules can – in the perception of the Nordic countries – be seen as a clash between a Nordic tradition that requires a specific transfer of voting authority in single situations, and a South European tradition where the chairperson is handed a blank authorisation to vote at his/her own discretion once elected (Skulason and Jääskeläinen 2000, Interview no. 2).

Finland and Denmark as extreme points

In recent years, on the other hand, there have been examples of situations in which the Nordic countries have acted independently of one another and have thus been split in their approach to trade union co-operation. The divergence is an expression of fundamental differences in attitudes to European development in the Nordic countries' trade union organisations when they act in relation to the ETUC.

The extreme positions are clearly occupied by Denmark and Finland. The Danish trade union organisations are anti-federalist; they are the organisations that bring the greatest number of cases before the ETUC's competent organs. The Danes are accordingly regarded as negative and foot-dragging with regard to the steps being taken to boost European integration (Interview no. 1). On the other, the Finnish trade union movement – conditioned by Finland's special geopolitical placing and its tradition for labour-market regulation via legislation – is very eager to stick to the European mainstream. This is a question of linking Finland as closely as possible to Europe so as to eli-

minate the risk of a return to the former isolated shadow existence under Soviet dominance. The Finns thus tend to favour the wing pursuing close integration, which has a clear majority in the ETUC. The Swedes are placed between these two positions: sometimes closer to the Danish position, e.g. on the issue of implementation of directives, and sometimes closer to the Finnish position, e.g. on the necessity of introducing more majority decisions in the area of social policy, so as to prevent social dumping in connection with enlargement of the EU towards the East. (Interviews nos. 2 and 3).

Retaining their position outside both the EMU and the EU, the Norwegian and Icelandic organisations are relatively neutral in the ETUC, which is to a large extent defined as an EU amalgamation, although both the other West European trade union movements and – after the fall of the Berlin wall – also Central- and East European trade union confederations have become members. This poses a problem for Norway, which is otherwise highly oriented towards international involvement. (Skulason and Jääskeläinen 2000, Interviews 1, 2 and 3).

At the *ETUC congress* in Helsinki in the summer of 1999, the differences emerged with great clarity. The Danes decided to offer vigorous opposition to the majority's general federalist perception of constantly growing EU integration and the development of a system with majority voting – also on labour-market issues. The Danes thus tabled a number of draft amendments which focus less on the federalism goal and more on the possibilities of applying regulation based on collective agreements. A survey of the voting at the congress shows a wide variation between the Nordic countries. In many of the rounds of voting, the Finns voted against the Danish proposals. In some cases, the Danes received the support of Swedish organisations, although the Swedes felt that the Danes were promoting their viewpoints all too vigorously. In the Swedish trade union tradition, there is an emphasis on a certain degree of centralism, which means that there is an attempt to gain influence in the preparatory congress committees, and then refrain from submitting at the actual congress proposals that have earlier been rejected. This is precisely what the Danish representatives – led by LO – did, because they found that, also in relation to the general public, it was important to emphasise a political point. They were then forced to pay the price – the predictable defeat (Interviews 1, 2 and 3).

Collective agreements and legislation

Viewed from a Danish perspective, the offensive approach adopted at the congress produced major gains. On the core issue of the placing of *collective agreements* in European labour-market regulation, Denmark received the backing of the majority. This was the outcome, despite the fact that a majority of the representatives in the preparatory

meetings had rejected these same proposals. In the opinion of Denmark's LO, this change in attitude is explained by the fact that politicians elected by popular vote – including those from the UK's TUC and Germany's DGB – were capable of seeing the perspective in the Danish proposal. After all, the basis for trade union activity and the main goal of any trade union organisation is to safeguard its right to conclude collective agreements in specific areas (Interview no. 1).

In the proposal submitted to the congress, the relationship between collective agreements and legislation was formulated as follows:

- “For the ETUC, the legislative approach and the negotiating approach are complementary and both are needed in order to develop the social *acquis*. In fact the two are closely linked, and particularly in the light of the new Treaty, analysis is needed case by case regarding which of the two approaches should be followed.” (NFS congress material, ETUC congress 1999).

To this formulation, the Danish organisations had the following wording inserted:

- “However, it should be underlined that the ETUC will in the fields of industrial relations whenever adequate give priority to the European Framework Agreements” (NFS congress material, ETUC congress 1999).

On the whole, the ETUC congress can be seen as offering symbolic support for the collective agreement model both at European and international levels (Interview no. 1). Can this be the key to a *solution* to what has been perceived – at least by the Danish parties – as a *dilemma*?

The real goal – also for the ETUC – is the conclusion of European minimum agreements with the employer counterpart, without any involvement on the part of the Commission. This would bring the ETUC a step further than the specified procedure introduce via the so-called “31 October 1991 Agreement” and the Social Protocol adopted in connection with the Maastricht treaty, which not only introduced the possibility of implementing EU directives via collective agreements at national level, but also the possibility of concluding agreements at European level and thus determining the content of the directives that would subsequently be implemented by the European institutions. This is still a form of political regulation.

It can be argued that a European IR system has already been established on this basis (Strøby Jensen et al. 1999), but it is not an IR system featuring self-regulation via the parties' own agreements. This is the extra component implied by the decisions taken at the ETUC congress in the summer of 1999.

The question is, however, how can such a system function? It will probably require the creation of a European labour court to ensure a system for settling disputes. And it will create problems in the many European countries where the

rate of unionisation and membership of employer organisations are low, thus reducing coverage. In such cases, supplementary legislation will be necessary, in compliance with the *erga omnes* principle. This suggests that the ordinary practice will still be one in which the EU – acting as a link between countries with different premises – will convert agreements into directives in accordance with the principles that already apply. As indicated above, this also happens to be the ETUC's official policy: a combination of legislation and agreements for the regulation of the European labour market.

The most stubborn obstacle to a collective bargaining system at European level is, however, not the position taken by the trade union organisations, which are familiar with a regulation model based to a greater extent on legislation. The opposition comes for the employers' organisation, UNICE, which has hitherto been against the development of a European collective bargaining model. The main tendency at national level has been towards decentralisation and individualisation. And why should the employers, who can thus escape a regulation form at national level, voluntarily accept that a corresponding system should be developed at European level?

The employers have been reluctant to participate in the Social Dialogue, as is evident from the fact that so far agreements have been concluded between the parties at European level only in connection with the adoption of three directives: on parental leave, on part-time work and on fixed term employment. The employers appear to be prepared to conclude agreements only when there is a distinct threat that under all circumstances regulatory directives will be implemented in a specific area (Grønli 1999, Strøby Jensen 1995, Strøby Jensen et al. 1999).

The development of the EMU may, in itself, lead to more rapid development of a European collective agreements institution – and even to an institution covering the core area of the collective agreements system: pay. It would appear that there is an inherent logic stating that there will be co-ordination not only of the member states' economic policy in general, but also of pay policy. Maybe at central European level this can lead to the development of common criteria and guidelines for pay development, corresponding with the framework drawn up via different tripartite arrangements at national level. But the process is still moving at a sluggish pace.

During the first phase, the most progress has been made via co-operation between single countries and at branch level. The trade union movements from the Benelux countries and Germany thus agreed in September 1998 to co-ordinate their demands for negotiations, exchange information and participate in one another's negotiating delegations. This arrangement is based on the principle of relating pay increases to inflation and increased productivity – the so-called Doorn agreement.

In December 1998, the European Metalworkers Federation, EMF, adopted – with the full backing of the Nordic trade unions – a proposal to commence a similar process in its area. The decision also covers the development of regional networks to co-ordinate pay policy. The Nordic federation, via *Nordisk Metal*, constitutes such a region (Dølvik 1999).

The Danish, Swedish and German organisations form another region, where steps are being taken to apply the principles enshrined in the Doorn agreement. This involves close co-ordination and exchange of information, along with participation in one another's negotiating delegations. During the collective bargaining round completed in Denmark in January 2000, the other organisations did not, in fact, participate directly, but there was a close exchange of information at meetings held throughout the process. And in the spring of 2000, CO-Industry, a so-called central organisation or bargaining cartel for the key industrial sector, was for the second time on the sideline during the collective bargaining in North Germany. The first occasion was in 1999, during the negotiations in the chemicals industry conducted by IG BCE (the mining, chemicals and energy workers' union). On the second occasion, the negotiations were conducted by IG Metall Bezirk Küste. This cross-border coordination is regarded as growing in importance. And the pattern of co-operation has added significance as it is conducted between organisations empowered to conclude collective agreements (Interview no. 4).

If the chairmen of Danish trade unions had been asked only a few years ago if they would one day participate in this form of co-ordination, the answer would have been a firm No. Now it has become acceptable, and it can signal the start of actual co-ordination of collective bargaining. And it is natural that the sector or branch level should be the hub of this development, because it is at this level that collective agreements are concluded in most of the European countries.

The leading position in this process will probably be assumed by EMF, with Germany's IG Metall as the front runner. This can be interpreted as indicating that it is the export-oriented sectors which support the EMU and closer European co-operation, while the opposition is most vigorous in organisations covering enterprises operating on domestic markets (Interview no. 2). This means that the dividing lines exist within national boundaries rather than between the countries in the Nordic region. The main obstacle to development, however, is opposition from employers who still wish to retain the decentralisation of wage-formation that has been introduced in many countries in recent decades (Dølvik 1999).

5. DISCUSSION ON IMPLEMENTATION OF DIRECTIVES VIA COLLECTIVE AGREEMENTS

This brings us to the two examples referred to in the Introduction: a) the special dilemma faced – in particular – by the Danish trade union movement with regard to the choice between national autonomy and increased EU integration, and b) the differences on this issue between the Nordic countries, e.g. between Denmark, Sweden and Finland.

In Denmark, the labour-market parties are of the opinion that one of the prior requirements for the survival of the Danish model is the possibility of implementing EU directives on labour-market conditions via collective agreements. If there is an excessive amount of supplementary legislation on account of the stipulation that all workers should be covered by political directives, this will radically alter the balance between collective agreements and legislation in the Danish model. This, in turn, will reduce the influence of the organisations, and the trade unions – in particular – will risk losing members

This possibility of applying the collective agreements was threatened by the initial communication sent by the EU Commission to the Danish government in June 1999, challenging the Danish implementation of the directive on working time via the collective agreements. The labour-market parties and the Danish government are puzzled by this element of doubt. Between 80 and 85 per cent of employees are covered either directly or indirectly by accords and collective agreements with regard to the provisions stipulated in the directive on working time. Moreover, the two main Danish confederations, LO (unions) and DA (employers) have issued a guarantee ensuring that *all* workers are covered, including workers who are not members of trade unions and are not *directly* covered by collective agreements.

In extension of the organisations' guarantee, the Danish government has issued a guarantee stating that if the labour-market organisations prove to be incapable of meeting their commitment, it will immediately address the issue and introduce legislation. The actors in Denmark are of the opinion that they thus meet the requirements which the EU Commission earlier regarded as adequate, i.e. that a) in actual *practice* they cover all workers, and b) will take immediate steps if there are any signs that a worker is not covered. But this is a political guarantee, not a formal legal guarantee, and this may explain why the EU Commission has taken the first step against the Danish government with its initial communication.

The Danish government sent its reply in January 2000, and at the time of writing (March 2000), it is an open question whether a case will be brought against the Danish

government at the European Court of Justice. If a case is brought, and if Denmark loses, this can turn out to be the straw that broke the camel's back. The outcome will be that – at a relatively early stage – there will be sweeping changes in the agreement-based Danish model, which will be replaced by regulation of the market via an increased volume of legislation (Due and Madsen 2000A).

On this issue, Denmark has the backing of the Swedes. Upon its accession to the EU, the Swedish government was granted – following pressure from Sweden's LO – a right, appended as a protocol, to apply agreement-based implementation of EU directives. But the Swedes themselves regard this as a political rather than a legally binding guarantee, and thus there is still the possibility that the right may be revoked by the European Court of Justice. This explains why the Swedes are prepared to support Denmark on this issue, even though the working time directive poses no problems for Sweden, because it is covered by Swedish legislation. But the problem may rear its head on a second or third occasion, if Denmark's agreement-based implementation procedure is found to be invalid. (Interview no. 2).

The Finnish government will probably also support Denmark in concrete terms, though only with a view to helping their Nordic colleagues (Interview no. 1). Neither the Finns nor the Norwegians have a concrete problem in this area, because they have established fixed procedures for extending the scope of collective agreements via legislation – a form of the *erga omnes* principle which is enshrined in the Finnish Act on labour-market agreements and in the Norwegian Act on "general application of tariff agreements" (Ahlberg and Bruun 1996). This is an approach which does not find favour with Sweden's LO (Interview no. 2). Especially in Finland, there has been a strong tradition of an extensive state role in labour-market regulation, and the Finns thus find it difficult to understand the Danish insistence on distinguishing between collective agreements and legislation on this point. (Bruun 1999).

The Danish parties regard it as unacceptable that the use of agreement-based implementation of directives should be abolished. The Danish – and possibly in this instance the common Nordic – perception of reality is that implementation via collective agreements is the most effective method of implementing and enforcing the provisions of directives. At the same time, there is the feeling that some countries in the Southern Europe talk a lot about solidarity and the introduction of pan-European rules, while at times they find it difficult to translate the wording of the provisions into actual practice. The legislative path does not, in itself, confer on workers the rights to which they are entitled (Interview no. 1).

This antipathy to the legislative solution may reflect some of the prejudices Europeans hold about one another, but if some of the parties are convinced that legislation

can be hollow, this can become the “operational truth”, and the consequences will be tangible. Obviously, one cannot accept a regulatory method, despite its legal flaws, just because the alternative method, though formally complying with the rules, also reveals some flaws.

One option is to adhere to one of the core principles of European co-operation – the subsidiarity principle, referred to in Danish as the “nearness principle”, at least when it can be demonstrated that agreement-based implementation of directives offers coverage of nearly 100 per cent. In this case, the choice must be the solution that works, rather than the formal solution that may not work. But the EU Commission thinks along legal lines, and would be acting out of character if it accepted a more pragmatic solution. Is it at all possible to set a limit at which regulation becomes manageable?

Most Danish specialists in EU legal issues are of the opinion that Denmark will face a serious problem if it insists on adhering to agreement-based implementation and rejects any supplementary legislation (Kristiansen 1997, Nielsen 1997).

6. YES OR NO TO MAJORITY DECISIONS IN NEW AREAS

The introduction of new areas where majority decisions are to be applied and the incorporation of trade union rights in the Union treaty have become relevant – now that they have been on the agenda at the intergovernmental conference on the new EU treaty intended to pave the way for the entry of new member states from Central and Eastern Europe. In most EU member states it is generally accepted that it is necessary both to incorporate trade union rights in the treaty and to introduce majority decisions in a number of new areas related to labour-market and social issues. The aim is to prevent social dumping and to prevent the new members from blocking further integration.

With regard to the incorporation of trade union rights, e.g. the right to form/join a trade union and to conduct collective bargaining, the Nordic countries agree that these rights must not be framed so that they require the sanction of the European Court of Justice. They accept that the new treaty should state that the single member states must observe these rights, but enforcement must be left to the national labour court systems. And if the national system fails to safeguard the rights, then the EU’s sanctions should be restricted to political measures, i.e. via the Council of Ministers (Interviews nos. 1 and 2).

On the other hand, with regard to the introduction of majority voting in new areas, there are differences between the Nordic countries. The opposition to increased integration is greatest in Denmark, whereas Sweden and Finland are more open to the proposal. They strongly advocate expansion towards the East, but the prior requirement is the introduction of efficient procedures for adopting minimum directives on labour-market and social policies (Interview no. 2). Denmark was thus the only Nordic country to join the UK in opposing the idea tabled by the Portuguese presidency at the end of February 2000. The Portuguese proposal emphasises the desirability of replacing the demand for unanimity by a qualified majority on a number of issues related to labour-market and social policies, including the rules governing dismissal, co-determination at the workplace and social security and protecting for workers. The Commission's initiative in March 2000 refers to the same measures. From a Danish perspective, this is an alarming development.

Although the aim is to adopt minimum directives and standards in Denmark are usually higher than the average, this move could have an (adverse) impact on Danish conditions. For example, a directive on dismissals will probably exceed the current Danish requirements. It is easy to dismiss a worker in Denmark, but the unemployment benefit system provides a relatively high degree of security. This system creates greater mobility and flexibility for Danish enterprises. If this system is changed, then flexibility must be achieved by other means, and this might mean a reduction of the level of unemployment benefit for workers in the lowest pay groups and a system with lower minimum rates of pay.

On one vital point, the Portuguese presidency goes a step farther than the Commission, as it includes the introduction of majority voting on issues related to collective bargaining. Admittedly, it does not cover the right to industrial action (strikes), or the mediation and arbitration procedures. But the proposal refers in general to the possibility of introducing majority voting on issues related to the collective defence of workers' and employers' interests and even on the contents of the collective agreements and their legally binding status, e.g. whether they should be extended to cover persons/groups who have not signed the agreements.

This additional dimension makes the proposal on majority voting in new areas even more controversial, also in the other Nordic countries. For the Danish government and the Danish labour-market parties there is the added complication that the initiatives come at a time when it is still unclear whether Denmark can observe established traditions and implement the probably numerous new rules via the collective bargaining system. If the Danish model is not to be undermined by EU development, it seems that one of the necessary conditions for the Danish parties will be retention of the right to implement directives via collective agreements.

7. THE PERSPECTIVES

There is some justification for arguing that the parties involved in Nordic labour-market regulation find themselves compelled to choose between national autonomy, which could safeguard the special features of the Nordic collective bargaining system, and further *EU integration*, which could promote the development of employment policy with the framework of the new monetary union. Apparently, however, it is the Danish trade union movement that experiences the choice as a real dilemma.

The two issues at stake are a) opposition to the introduction of majority voting in new areas, and b) the fear that implementation of EU directives via collective agreements will be undermined. Developments in recent years suggest that the Nordic trade union movements have different viewpoints on these issues. At the same time, our analysis indicates that these differences will continue to exist in the foreseeable future. The divergence in opinion is likely to influence the future role to be played by the Nordic trade union movements.

It seems rather improbable that the Nordic countries' trade union movements will emerge as a single bloc united by a common ideology – as a bloc that continues to defend Nordic values at European level. But neither is it likely that Nordic trade union co-operation will be eroded. On the contrary, it will probably continue to observe the pragmatic guidelines, based on the *ad hoc* approach that has been the hallmark of co-operation since 1972. Throughout the history of NFS and the ETUC, the tradition has been established whereby the Nordic countries have exploited the opportunity to pool their resources and present a united front whenever consensus proved possible. But at the same time, there has been a tradition whereby each of the national trade union movements has been capable of acting independently of the others, when consensus could not be achieved. And it should be noted that in cases where viewpoints did not concur, this was not regarded as a rift that could damage the co-operation structure or threaten solidarity.

The single trade union organisation will probably continue to act as it has hitherto – broadly in line with the overarching EU policy of its national government rather than on the basis of trans-national trade union viewpoints. In view of the current differences of opinion – e.g. on the issue of implementation of directives and majority voting – it will hardly be surprising if the Nordic trade union movements act with a greater degree of independence than they have in the past. Although co-operation based on functional pragmatism can easily accommodate these differences, it would be unwise to ignore the possibility that they can – in the longer term – weaken Nordic solidarity.

Notwithstanding, the tendency towards *regionalisation* suggests the opposite. NFS has thus already accorded a higher priority to co-operation on development of the Baltic region. The measures cover both general policy and collective agreement areas where – as reported above – a new form of co-ordination between trade union organisations in Germany, Sweden and Denmark has been established. In the longer term, this development can reinforce co-operation between the Nordic countries, although there are still indications that new forms of co-operation will be devised which also involve non-Nordic countries.

The difficult choice faced by the Danish trade union movement in relation to EU integration centres, in fact, on a more fundamental question: the EU's mode of functioning. There is hardly any doubt with regard to development in the direction of an actual political union with a federal state level at which majority decisions are taken on the most vital political and economic issues. But – viewed against the backdrop of European history – neither is there any doubt with regard to the fact that, on the one hand, there must be room for more variations than in an ordinary federal state in local implementation of the decisions. And, on the other hand, only truly trans-national issues should be subject to decisions at European level (i.e. application of the *subsidiarity principle* and the *proportionality principle*), if the project is gain popular support.

The problems posed by these principles is that – on account of the Inner Market and the subsequent closer and closer economic integration – it will be difficult to draw clear distinctions between issues that require joint overarching decisions and issues that can be managed at local level. In virtually every case, it will be possible to argue that the issue has a trans-national dimension. And it will also be possible to brand special nationally-based forms of practice as causing a distortion of competition. EU development is thus likely to be influenced more by the political balance of power than by the principles themselves. And – assuming that the EMU will function as intended – the development will be towards increased integration and a greater number of joint decisions.

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INDUSTRIAL RELATIONS IN CENTRAL EASTERN EUROPE IN THE PERSPECTIVE OF EU ENLARGEMENT

1. INTRODUCTION

Ten years after the political turnover in Eastern Europe, the economic transformation has been mostly accomplished in the most successful reform countries of CEE, in Poland, the Czech Republic and Hungary with their EU integration having become a mid-term reality.

In Poland and Hungary where the bulk of structural change has been made at serious social sacrifices and mass scale privatisation came to an end resulting identifiable, real private owners, the economy is on track of fast and sustainable growth. The case of the Czech Republic is more ambiguous, as structural change and privatisation has not been consequently managed and the "social costs" of the transformation did not yet fully appear explicitly. It is however no doubt that the Czech Republic also belongs to the successful side of the CEE transformation process. Although the most difficult phase of the transformation is over, the most critical one is just now underway, determining what sort of a society will be emerging in the luckier part of Eastern Europe. If we extrapolate the current trends of rapid differentiation of the society taking the general lack of solidarity into account, the future might be even more disproportional. To bring this process of polarisation under control, an effective social dialogue would be more needed than ever.

The transformation period was not a "normal phase" of socio-economic development to be easily described and understood by Western principles, it was a period of "state of emergency", where major developments ran under constraints often determined by outside factors. These societies are now entering the normal or organic phase of development, where the behavioural patterns of established market economy actors can or should be implemented. To formulate flatly, trade unions can now become real trade unions instead of multifunctional social actors, what they were under the transformation years. They had to face serious legitimacy problems and their priorities were the support of the reform process, which sometimes contradicted the protection of workers interests.

This is also the context, in what we can approach the issue of EU integration. Are trade unions and the institutions of social dialogue prepared for this new role demanded by emerging market economies at the periphery of the EU under the circumstances of globalisation?

The main issue of this study is to examine the state of industrial relations with a focus on trade unions in CEE countries with respect to their role in the transformation process and from the perspective of future EU integration.

2. THE BASIC FRAMEWORK OF TRADE UNION SET-UP AFTER THE POLITICAL TURNOVER

The course of the move from mass labour organisations in the close proximity of the party state under socialism to becoming free and independent unions has varied greatly from one country to the other.

In *Poland* the struggle for leadership and influence between NSZZ Solidarnosc and OPZZ has been an intrinsic element of the socio-economic transformation process. This was inseparable from the political struggle between the Solidarnosc based anti-communist alliance and a post-communist leftist coalition including OPZZ. The mutation of Solidarnosc to a political organisation has weakened its national leadership structure and came into contradiction with traditional trade union functions. This gave the way for younger leaders and supporters of industrial unionism to take over. OPZZ on the other hand dismantled its centralised power structure.

Unlike the rest of CEE, where the conflict between old and new unions and resurgent workers' councils persisted after 1989, in *Czechoslovakia* the old unions were completely replaced by new ones. Competition for leadership between a new coordinating body that was formed out of the several thousand strike committees under the Velvet Revolution and the monolithic communist union, ROH was settled at the All-Union Congress in 1990 with the emergence of a new trade union federation, CSKOS. The newly created Czech and Slovak Confederation of Trade Unions took over the old union assets. In addition there emerged another federation, the KUK (Confederation of Art and Culture), which together with CSKOS gave the labour side of the nation-wide formulated tripartite organisation, the Annual General Agreement. After the separation of Czechoslovakia in 1992 CSKOS also separated into two confederations with CMKOS remaining the representative trade union confederation of the Czech Republic. The rate of unionisation has dropped from the initial 80% to around 40% by 1996. It should be also noted that while old unions

were dismantled, the new confederation preserved the centralised structure of its predecessor.

In *Hungary*, the union movement has been highly split since 1989. Eight trade union confederations have been struggling for recognition and political influence, six of which were represented in the institutions of nation-wide social dialogue. The six confederations differ vastly in their history, size, coverage and political affiliations. The biggest one, MSZOSZ (720.000 members) is the reformed successor of the previous communist union SZOT.

Some federations have got detached from the monolithic bloc of previous SZOT and founded themselves anew as independent unions:

- Confederation of Autonomous Trade Unions (ASZSZ, reporting 222.000 members),
- Trade Union Co-operation Forum (SZEF, reporting 530.000 members),
- Confederation of Professionals' Unions (ÉSZT, reporting 95.000 members).

Two unions, the Democratic League of Independent Trade Unions (98.000 members) and the National Association of Workers' Councils (70.000 members) are newly formed unions, having no roots in the communist system.

Thus Hungary followed neither the Czechoslovak model, where old trade unions were dissolved, nor the Polish model, where the new, alternative Solidarnosc became an equal rival of the old trade unions. The old trade unions in Hungary, those affiliated with the former SZOT, remained predominant after essential reforms and retained a remarkable degree of support among workers. The elections for the authorities of Social Security Funds and the nation-wide Works Council elections in 1993, which were perceived as "trade union elections" consolidated the dominance of MSZOSZ with over 50% share of the mandates. This closed down the most vehement period of trade union internal disputes, as finally also property claims were settled and underlined that a bipolar model of "old and new" unions does not work in Hungary.

3. THREE WAYS OF TRADE UNION QUIESCENCE IN CEE COUNTRIES DURING THE MOST TURBULENT YEARS OF TRANSFORMATION

The first period of transformation brought relative social peace and union quiescence in most Central Eastern Europe, at a time when living conditions of most employees deteriorated radically. Real wages dropped by 20-30% in 3-4 years, unemployment jumped from virtually zero to around 10 per cent. Under such conditions one could have expected a confrontative if not a militant trade union behaviour on basis of tradi-

tional labour values. Were unions that weak, or wise enough to trust in long term reform success giving up short-term claims, remains a question. In the next sections we try to examine trade union behaviour in three CEE countries (Czech Republic, Hungary, Poland), what might have been in the background.

The heritage of socialism can be one factor, as the failure of official unions to genuinely represent workers' interests led to social atomisation and growing individualism with informal bargaining becoming the major way of survival. This has resulted in low legitimacy for trade unions but more importantly this generated such individual bargaining strategies among employees, which survived the change of the political climate. This is more or less characteristic for the whole Central Eastern European region except Poland, where *Solidarnosc* acquired great legitimacy and large political capital in the early eighties. The second important factor is that trade unions became political actors of the transformation process.

In the *Czech Republic* moderate trade union approach and social peace in the first five years of transformation was marked by the low number of industrial conflicts. The national tripartite body became the main forum of social compromise, where trade unions became the partners of the liberal government in implementing a low wage – low unemployment policy based on state intervention and wage regulation. A further important component of social peace was the manner in which the mass privatisation programme gained popularity. The government propaganda was successful in producing the illusion of a certain kind of stakeholder capitalism. For trade unions it also created a belief that this sort of privatisation would solve former managerial inefficiency, problems, micro-level restructuring and relative workplace security.

The high level of social peace in the first five years of the Czech transformation can thus be explained by several factors. The government was able to pursue its policies with little regard for union pressure, fully exploiting the unions' fears to be identified with discredited leftist values. In this regard, the high popularity of the liberal government and its successful tactic of combining liberal rhetoric with cautious reforms and state interventionism, has put a great challenge to trade unions. After the conciliatory partnership of unions in the first period, they showed growing assertiveness from 1994 to force concessions from the government during its efforts to curb union representation rights and in the deregulation of the employment law. In 1995, when the government tried to dismantle the tripartite structure, *CMKOS* adopted an increasingly campaigning role. The mass demonstrations of 1994-95 exerted pressure on the government, in which unions formed alliances with employers. Industrial relations showed no signs of returning to social peace, as several regional conflicts appeared, where regional unions took a harder approach. The low wage – low unemployment social

compromise also started to crack down with the abolition of central wage control and with the growing conflicts in the public sector. It has been proved that the social accommodation of the earlier period was a fragile one.

The appearing marginalization of trade unions in the political sphere could have been a temporary phenomenon due to the hostile approach of the late Klaus government, which changed favourably with the change of the political climate under the Zeman government. It is however a paradoxical phenomenon that trade unions had to face the social burdens of the Klaus pseudo reforms at times, when the government corresponds much more to their political and social values. The dilemma of confrontation or co-operation has thus reproduced itself.

In *Hungary*, unions also played an active role in nation-wide politics during the whole period of transformation. As the political change was much smoother and gradual, than in most CEE countries and market economy reforms also kept a continuity with the reform communist experiments of the 1980s, no political actor could have felt itself as the revolutionary embodiment of changes. There was one newly formed union, the Liga, which played an active and catalytic role in the political changes in the period of 1988-1990. Since it was a small intellectual movement with limited roots among workers, Liga could not develop aspirations to replace the hegemony of the post-communist union. MSZOSZ on the other hand played a defensive role under the political changes and stood with shattered legitimacy after the establishment of the new political set-up in 1990. It contributed to the survival and transformation of MSZOSZ greatly that tripartite structures have been established already in 1988 by the reform communist government. This was the main field of establishing a new legitimacy basis for unions, especially for MSZOSZ.

The first freely elected conservative government had low confidence in the unions and took a hostile stand against MSZOSZ at the beginning. It was the bitter experience of the taxi-drivers' blockade in fall 1990 (where unions paradoxically did not play a central role), which made the government to take a more co-operative role towards interest representation bodies, including unions. This especially referred to the National Committee for the Reconciliation of Interests, which was acknowledged by the government as a nation-wide forum for interest co-ordination. The period until 1992 was marked by internal trade union disputes and by the renewed efforts of the government to curb the status of MSZOSZ. On the other hand it was the time for MSZOSZ to struggle for its existence and legitimacy. Paradoxically campaigning efforts of MSZOSZ were not very successful for demonstrating power, it was further on the tripartite body, which served as the field of asserting itself and strengthening its legitimacy. After the agreement on the settlement of trade union property and after the "trade union elections",

the trade union landscape marked by six representative unions with the dominance of MSZOSZ had been crystallised and the government has accepted this status quo, as reality.

Unions were thus engaged with matters of survival and self legitimisation in the first, most turbulent years of transformation. Their activity was concentrated on the political field, the terrain for which was the tripartite body. They actively took part in public policy formulation and implementation. It is a remarkable phenomenon that the unions neglected workplace representation. One of the last major attempts of the government to weaken unions was the introduction of works councils by law, which was meant and also perceived as a manoeuvre against trade union presence at the workplace. Works council elections thus became another test of trade union power and legitimacy, which ended with the sweeping victory of MSZOSZ. This period can be best characterised by the term “weak and divided unions” at a time, when the social burdens of the employees were the highest. Union quiescence in this period was thus due to the weak position of the labour movement.

The situation changed dramatically after the second elections (1994), when the Socialist Party, an election ally of MSZOSZ, gained absolute majority. Several federation presidents of MSZOSZ were socialist Members of Parliament. We will see however that this new set-up did not change fundamentally the final outcome of trade union behaviour, only its background had become different. This time it became the doctrine of the major union to integrate the responsibility toward the national economy with the representation of workers' interests, thus a conciliatory approach was undertaken consciously. The test for this attitude was the severe austerity package of the Socialist government in 1995, which resulted in a 12% real wage cut in one year. From labour side, there was no major upheaval, no strikes, no protests. It was a paradoxical situation that a leftist government pursued liberal monetary policies, sometimes even harsher, than Margaret Thatcher in Britain. It is true however that the room of manoeuvring was very tight for the government, since the country stood at the edge of insolvency. It has proven a right policy of the government to restore the stability of the economy and to create the long term conditions of a sound economic structure and sustainable growth. From 1996 the economy belongs to the most successful ones in CEE, producing record export growth and productivity growth without example, although workers still do not feel much from the benefits of this. It was of course the close political links of the major unions to the leading governing party that made this attitude possible.

From 1998 the constellation has changed again, as the newly elected conservative government took a hostile stance against unions, regarding MSZOSZ as a clientele of the Socialist Party, against which it has proclaimed an offensive. Self governing bodies

of the Social Security Fund led by MSZOSZ were abolished by decree, the tripartite mechanism of interest negotiations was radically transformed and marginalised. The newest scene of the battlefield is the general railway strike in February 2000, where both unions and the government try to show their power. The outcome of the strike is still open but it will have long term consequences for the labour movement in Hungary.

In *Poland* trade union legacy is different to the rest of CEE with *Solidarnosc`* historical role in the 1980s. *Solidarnosc* grew to a 10 million organisation in four months in 1980. Returning to legality in the late 1980s *Solidarnosc* became a large political organisation with declining union strength. Its members shrunk to 1,5 million by 1994, while its rival, the post-communist OPZZ claimed 4 million members. There are also a number of new sectoral or regional unions that have emerged since 1989. The most important is *Solidarnosc`80*, an organisation that broke away from *Solidarnosc* in 1990 claiming to be the genuine representative of the former values of the union.

The greatest tensions emerge from the double role of *Solidarnosc*: On the one hand, a political organisation and, on the other, a trade union. *Solidarnosc* is a trade union whose underlying political philosophy is right wing and pro market. In the period after the first freely elected conservative government *Solidarnosc* identified itself as a prime supporter of structural change, when at the same time its members were increasingly worried by the effects of that restructuring. *Solidarnosc* regards itself as a prime promoter of change and an implacable opponent of the nomenclatura bourgeoisie. The driving force of restructuring is being: privatisation, foreign direct investment and the reemergence of small firms. For *Solidarnosc*, as trade union all three ways are problematic, as all contribute to its weakening workplace representation. It is however worth noting that privatisation and foreign capital involvement has been much slower in Poland than in Hungary or the Czech Republic and also falls short from previous Polish expectations. This is partly true to the strong opposition of employees and to the greater influence of workplace representation bodies in blocking privatisation efforts. The double role of *Solidarnosc* and the contradictions resulting from it appeared most openly from 1997, when the anti-communist coalition of AWS under the umbrella of *Solidarnosc* won elections.

Summing up the above, it is quite stunning that trade unions seemed to take a very cautious approach to the transformation avoiding confrontations at times, when traditional union behaviour would have seen this unavoidable. It is also remarkable that the same outcome was the result of sometimes quite different framework conditions. On the one hand, it is certainly true that trade unions had to struggle with their own transformation difficulties and legitimacy problems, which went to the detriment of interest representation. On the other hand, the core of the problem relies in the internal conflict,

which is embodied in Solidarnosc most openly with its double role. The strong political orientation of trade unions may have been an essential and unavoidable phenomenon of the transformation, but it is also no wonder that this comes into conflict with the narrower focused interest representation role.

4. TRIPARTISM AS THE MAIN TERRAIN OF TRADE UNION ACTIVITY IN CEE

In the course of the political transformation most CEE countries have started to involve employer and trade union representatives into national policy formulation and governments also actively promoted tripartite structures. It was an understandable effort of governments to involve social partners into crucial decisions of the transformation in order to secure social peace at times, when social explosion threatened. As a result, tripartite relations represent the most important form of labour relations in most countries of CEE. Hungary, the Czech Republic, Bulgaria, Poland, Lithuania, Latvia, Slovakia and Slovenia all promoted tripartite national councils, generally based on legislation, where formal discussions occur between the governments and the social partners. Tripartism started in Hungary, followed by Bulgaria and Czechoslovakia in 1990 spreading to other CEE countries in 1992.

The establishment of institutional tripartism in Hungary by 1988 was an element of the political and economic transformation process. The Interest Reconciliation Council provided institutional framework for national wage negotiations and for pre-legislative consultations and agreements on labour and economic legislation. It was a major success of the tripartite body that during the most dramatic demonstration of the decade – at the taxi-drivers' blockade which paralysed the country for three days in 1990 – it was the institution which managed to find a negotiated solution during a one-day public session broadcasted by the television. This was a breakthrough for the acceptance of the role of tripartism in managing social conflicts for the then governing conservative coalition. In the coming years the IRC provided the institutional framework for trade union participation in preparing labour legislation such as the Labour Code, the Act on the Legal Status of Public Servants, the Employment Promotion Act and also the amendment of the Privatisation Law.

It is certainly true that tripartism yielded great benefits for its participants in reinforcing their legitimacy in critical periods. They were the tripartite organisations, which paved the way for trade unions and also for employer federations to become national players with an influence on the process of transformation. Sometimes it was a good

occasion for government officials to pass on responsibility for critical decisions to the tripartite body, which in this way also served their public acceptance.

From a critical point of view, it was often raised that agreements on the tripartite level could endanger the sovereignty of Parliament. It is certainly true that the authority of the tripartite body has never been clearly defined. Its agreements were not compulsory for the Parliament, although it never happened that decisions were brought in contrary to a reached agreement at the tripartite talks.

Experiences in other CEE countries are similar to the Hungarian ones. In the Czech Republic, the Council of Economic and Social Agreement made also significant contributions to social consensus. The main topics were also similar, namely minimal wage setting, wage indexation and employment policy. It is also a similar feature that trade unions could use tripartite bodies for self assertion in critical situations. When the liberal government tried to curb union rights and to marginalise the tripartite body, unions could exert pressure within these institutions.

The spectre of totalitarian corporatism haunted in CEE, when bad traditions were recalled. This points to the limits of tripartism and prevents most CEE countries from developing institutionalised structures of corporatism. We have to admit that the unproportional weight of the tripartite structures in the industrial relations of CEE is itself the result of the transformation period. There are already signs in many countries that the central importance of these structures will decrease in the future. We also have to add that the overweight of tripartism in CEE contrasts with industrial relations of EU countries, where formal tripartism rarely exists and social dialogue at the national level takes place in a more informal way.

5. UNIONS AT THE WORKPLACE

As we saw, the rate of unionisation of employees has diminished on average from around 90% in the eighties to 40% by the mid 1990s. Workplace representation has diminished even to a greater extent, which is due to several factors. The first and most important one is the fundamental change of the economic and employment structure.

First of all, a large group of employees were lost by the trade unions through the disintegration of the previously state owned large enterprises. Emerging micro, small and medium size enterprises could not have been covered by trade union representation not to speak about the large number of self-employed people. Trade unions had also faced large setbacks at privatised enterprises, especially at those where foreign capital was involved. In case of green field investments the situation is even more problematic.

All CEE countries had to count with the informal shop-floor legacy of the socialist economy, where informal bargaining and social atomisation were prevalent. The inherited behavioural patterns from this period were not very favourable for the reorganisation of workplace representation for unions. Previous co-determination rights of employees based on the self-management ideology were abolished in most countries (except Poland) and no functioning model of co-determination appeared since. In the Czech Republic the illusion of financial participation appeared in the form of workers shares. In Hungary works councils established by law did not live up to the expectations to become functioning bodies of co-determination.

In *Poland*, where workplace representation of unions and their shop-floor influence counts still to be the highest in CEE, unions also face serious setbacks. In self generated SME-s union presence is minimal and it has been decreased radically at organisations privatised through liquidation, as well, although this was the way of privatisation where employees received the greatest concessions. *Solidarnosc* claimed 28% of the employees in this category of enterprises, while *OPZZ* just 22%. In foreign owned private firms however *Solidarnosc*' presence is just around seven per cent, while that of *OPZZ* is still lower.

This means the new economic structure that has emerged in CEE countries through decentralisation and privatisation has eliminated much of the traditional ground of union's workplace presence. The process seems to a great extent unavoidable, it is however probable that trade union strategies were also not adapted properly to the new challenges of a transformed economy. When the patterns of trade union behaviour were crystallised after the political changes in the early 1990s, the economies of the CEE countries were still dominated by large state owned firms. Unions were simply not prepared to adapt new strategies for the totally changed economic environment. This is even more so characteristic for the socialisation of trade union functionaries, which roots in the previous economic structure.

We should not forget that beside the "unfavourable" economic structure as a reason for weakness at the workplace, unions also neglected to develop new shop-floor strategies, they concentrated their efforts on the national level. This was necessary in the first period of the transformation, since the existence and legitimacy of the unions were at stake. As we mentioned before, the conflict between *Solidarnosc* as a political power and as a trade union appears the sharpest way at the workplace, which also models the conflicts of other unions in the region. We can point out that the greatest obstacle of the successful operation of unions in CEE is their weak position at the workplace. This constellation starts to undermine unions' legitimacy even at the political level.

6. THE FUTURE OF INDUSTRIAL RELATIONS IN CEE FROM THE PERSPECTIVE OF EU ENLARGEMENT

EU enlargement often appears as a technical matter, as if the adaptation of different EU directives and the national claims for derogation would be in itself the preparation for future EU membership. It is also true that the unions are not involved into the accession negotiations, not having an influence on national strategies being presented to the EU.

Although I also think that the unions' participation should be much greater in this sphere and they should fight for more room of influence, but I am convinced that enlargement as a socio-economic process poses a much greater challenge for the industrial relations. Present industrial relations in CEE fall quite far from the patterns of the EU countries. Trade union activity is overpoliticised, tripartite structures have an overweight, while industrial relations at the industry level are still underdeveloped. While only 10% of CEE employees are covered by multi-employer collective agreements, this ratio in Western Europe reaches 70%.

The nature of industrial relations also reflects a less organic character in CEE not having roots in the socio-economic development of the particular countries. We should not forget that the prevailing pattern of industrial relations was implemented by laws and regulations from above at the beginning of the 1990s. There will also be problems for CEE countries to join the European social dialogue; works councils in CEE do not generally exist and even if they exist, do not have real influence.

In my view, fundamental changes are needed at the core of industrial relations in CEE countries. On the one hand this refers to the basis of interest representation, namely to the workplace union strategies. In order that unions could represent employee interests genuinely, they need solid roots at the workplace. This is missing nowadays and it is most important for unions to develop strategies for elevating their workplace presence, which is adapted to the new structure of the economy. When present tendencies continue, efficient employee representation would restrict itself to the public sphere.

There is another aspect, where trade union strategies should be newly formulated – namely national level policies, which is in close connection with the former one. The most characteristic union attitude in CEE was self-restraint, union quiescence and a supportive approach of the painful but necessary reforms. It was a justifiable behaviour during the most difficult period of the transformation. One could add that this was a necessary element of successful transformation and of preserving social peace. Now the situation has changed, the bulk of the economic transformation is over in the most advanced CEE countries and their economies develop dynamically.

In order that a future membership would not be a formal one, a political act with the mere adaptation of the Acquis, trade unions need a much more dynamic and initiative approach. From a labour point of view, a future membership will only mean the full integration of a country, if social standards would approach the EU level. Under present conditions, when real wages in CEE are around 15% of the EU average with per capita GDP being around at 40% of that, it is an illusion to talk about the free movement of labour, which is an essential part of full integration.

Unions thus should take a much bolder attitude in exploiting the opportunities arising from the economic growth to represent workers' interests.

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Margarete Hasel

**HANS-BÖCKLER-STIFTUNG
D-40227 DÜSSELDORF,
BERTHA-VON-SUTTNER PLATZ 1**

If you arrive in Düsseldorf by train you have already almost reached the Hans Böckler Foundation. Beyond the main station there is a modern office complex built around a square with a number of cafés and sculptures. Just 20 years ago, this was a steelworks. Redeveloped, it now houses several insurance companies, local authority offices, a training centre, and the 120 employees of the Foundation.

Bertha-von-Suttner-Platz symbolises the changeover from a traditional industrial society to a modern service-based economy. The enormous increase in the number of jobless people on the streets in this area is one of the characteristics of the great divide which such change has also brought in our society today.

The Hans Böckler Foundation aims to promote economic, technological and cultural change in the interests of the millions of working people and their families. The Foundation believes that a humane working environment and efficient economy can only be maintained through the involvement of employees and their representatives.

HANS BÖCKLER AND HIS FOUNDATION

Hans Böckler was the first post-war President of the German Trade Union Federation (DGB). Through his excellent negotiating skills and effective campaign of strike action, he succeeded in making the equal participation of trade union representatives on the supervisory boards of the coal and steel companies a part of German law.

He died in 1951 and the foundation named after him was founded 1977 by the DGB through merging two existing institutions. Its purpose is:

- to build links between works councils, unions and academics;
- to advise and train works council members and employees representatives on supervisory boards in large companies on how to deal with co-determination in practice; and
- to award grants to some 1,600 students and post-graduates who are actively involved in social and union work.

RESEARCH FOR THE FUTURE

We are experiencing a period of rapid change both in the economy and society to which unions must adapt. This applies particularly to the policies they adopt at collective bargaining and company level. Works councils also need a sound factual basis if they are to participate effectively in negotiations with company management. To support this the Foundation has developed a research programme entitled "Research for the future". Within this programme it has initiated and commissioned a series of specific research projects on key issues such as prospects of the working society, industrial policy and structural change, modernisation of public services, reform of the welfare state and challenges to co-determination. The Foundation invests around 13 million Marks each year in these projects.

In addition the Foundation has its own research unit, the WSI (Economic and Social Research Institute) with 30 staff-members. Founded by the DGB more than 50 years ago, the WSI became part of the Hans Böckler Foundation in 1995. The WSI maintains an archive of collective agreements, which are constantly updated. In addition the WSI carries out research on economic and financial issues, developments in the labour market, the welfare state and social policy. It has a monthly journal "WSI-Mitteilungen" which presents the results of this research to the academic community and other interested readers as well as providing a forum for examining research topics of concern to trade unions. (For further information see: www.wsi.de)

EFFECTIVE CO-DETERMINATION

"Mitbestimmung", co-determination, is the name of the monthly magazine of the Hans Böckler Foundation (see www.die-mitbestimmung.de). This name encapsulates the basic programme of the Foundation but, most important, co-determination is an essential part of the German social model. Both the content and procedures are laid down by law. But for some time co-determination has not been the tightly state-defined institution which it once was and which many outside Germany still consider it to be. On the contrary, co-determination is a vital element in the independent organisation of society.

It will come as no surprise that a Foundation close to the unions sees the promotion of co-determination as helping employees and their trade union representatives to exercise influence in the world of work. And it must be equally unsurprising to find that in today's turbulent world of global competition and massive company downsizing the job of employee representatives has not become any easier. As a result extensive prior

knowledge of economics, labour laws, modern personnel management practices and further education is essential. Advice and support on all these issues is available from the various departments of the Foundation to employee representatives everywhere.

Co-determination at company level (workers' participation in the business decisions of the company) including its institutional implications plays a crucial role. It is true that the unions did not succeed in extending the equal participation on supervisory boards, which Hans Böckler forced through in the coal and steel industries after the war, to the rest of the economy. However, in 1976 the Social Democratic government finally passed a Co-determination Act (Mitbestimmungsgesetz) despite fierce opposition. As a result there are now employees' representatives on the supervisory boards in all registered limited companies with over 2,000 employees in Germany. They have the right to participate in decisions on such diverse topics as disposal of parts of the company and membership of the company board of directors. They share responsibility for investment and rationalisation, as well as the introduction of new technology. And they are expected to assess and evaluate corporate decisions, analyse balance sheets and oppose decisions which might adversely affect the employees.

SUPPORTING STUDENTS

What do the President of the influential Chemical, Mineworkers and Energy Union, Hubertus Schmoldt, and Ernst Welteke, President of the German Bundesbank and Member of the Governing Council of the European Central Bank, have in common? They both started out as apprentices and went back into education with grants from the Hans Böckler Foundation.

The aim of the student grant scheme is to improve educational opportunities for young people who are actively involved socially, politically or at union level, but cannot afford to study. Grants are also offered to graduates and university students for work experience and union training in Germany and abroad.

The Foundation works with around 200 unionised university lecturers throughout Germany who act as personal tutors. Many of those who get grants carry on promoting social awareness and supporting the unions in later life, which in turn benefits the Foundation.

WHERE DOES THE FUNDING COME FROM?

The Foundation is mainly funded from the fees that employee and trade union representatives receive for participating in the supervisory boards of German companies.

While the shareholder representatives can keep these earnings, employee representatives are obliged to turn a major part of their fees over to the Foundation. If they refuse, their names are published in the union journals. And there is the final sanction of expulsion from the union which automatically destroys their chances of future supervisory board membership.

Each of the more than 5,000 sponsors of the Hans Böckler Foundation paid on average over 6,000 Marks into the Foundation funds in 1998, i.e. around 36 million Marks in total. In addition, 20 million Marks is paid by the Federal German Ministry of Education, specifically reserved for grants.

WHO TAKES THE DECISIONS?

The institutional structure of the Foundation reflects its links with works councils, union policy and academic world. Day-to-day business is conducted by two executive directors – one female and one male. The board of directors consists of representatives of the German unions, the DGB, and one union-linked personnel director from either the coal or iron and steel industry. There are also representatives of the personal tutors, those receiving grants and the sponsors who may also be called upon to act in a consultative capacity.

WWW.BOECKLER.DE

The Foundation wants to reach the widest possible audience and so it produces, apart from the above mentioned periodicals, several hundred books and publications every year. For further enquiries please contact: Sack-Verlagsbuchhandlung, Klosterstr. 22, 40211 Düsseldorf, Telefax: 0049/2 11/35 04 39.

These days, of course, the Foundation's own research and the projects it has commissioned, need to be accessible on the Internet. The address is: www.boeckler.de

Language will not necessarily be a problem. Information in English about the results of research projects which are clearly relevant to European developments as well as more detailed material about German industrial relations is available at: www.boeckler.de/map/english.htm

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- was founded in 1978 on the initiative of the European Trade Union Confederation (ETUC)
- forms a bridge between trade union movement and academic world
- keeps trade union organisations informed about various European matters affecting trade union policy and its implementation
- conducts and promotes intellectually independent research in two areas
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- European Works Councils
- European Social Dialogue
- Modernising Trade Unions

Employment, labour market and social policy

- European Employment Strategy
- Globalisation and Labour Markets
- EU Enlargement and the Implication for the Labour Markets
- Social Protection

PUBLICATIONS

As well as a number of regular publications (European Trade Union Yearbook, annual report on European collective bargaining developments, Handbook of Trade Unions in Europe, the quarterly journal TRANSFER), the ETUI issues various types of publication on the subjects listed above. A list of publications is available from the ETUI on request.

CONTACT

European Trade Union Institute
Boulevard du Roi Albert II, 5 box 4
B-1210 Brussels
Tel. +32 2 224 04 70
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