



LABORATOIRE SOCIAL D' ACTIONS D' INNOVATIONS DE REFLEXIONS ET D' ECHANGES

After the Irish no :

**SOCIAL PLAYERS, RELAUNCHING
EUROPE AND GLOBALIZATION ?**

9th BIENNIAL Europe Work Employment
18 & 19 September, 2008

SAINT ETIENNE

Workshops documents

With the financial support of the European Commission



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Rhône-Alpes^{Région}



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Introduction

Since the first biennial held in 1990, Lasaire has continuously highlighted the disparity and then the widening gap between a Europe evolving without any real guidance and the expectations of citizens for a more social and more democratic Europe closer to their concerns.

As we feared, enlargement was carried out without any deepening process. The Euro was introduced bereft of any economic or political governance mechanisms. This was an unbelievable event, a currency existing in a space devoid of any political guidance. At the same time, neo-liberal pressures was strongly brought to bear calling into question the very bases of the European social model particularly in those countries which are considered as the figureheads of this model (the Scandinavian countries and Germany). As a consequence, the position of the social actors in each country has been reduced. At a time when supranational, even European, social regulations are more than ever needed, national collective agreements meant to support economic activity and labour are being questioned by the Member States. Three recent rulings of the CJEU¹, the draft directive on working hours adopted by qualified majority vote², after the episode of the Bolkestein directive, demonstrated the persistent drift towards the lessening of the role of collective bargaining in the Member States. All these events only reinforce the concerns of the people.

Since its inception, Lasaire has been trying to get the social issue placed at the heart of European concerns. The Irish no vote only confirmed once again the validity of our analyses. The Irish, after the French and the Dutch no votes, bring us back to the question - What kind of Europe do we want ? What type of social services ? How do we highlight and preserve our social heritage ? The time has come to realise that the people of Europe will turn their back on a process that is not only developing without them but even against them.

The citizens of Europe voted in favour of the single currency because they believed the promises that were made then. Well they have paid a high price for this and those promises have not been kept. They hoped to be able to benefit from their efforts but what did they get ? € 1 000 salaries a month for young graduates and plummeting social standards. There are some winners of course (e.g. those who voted Yes in Ireland) but they count less than the precarious and uncertain economic climate which is gaining ground every day.

The European public authorities made an appeal to the trade unions to keep down inflationary pressures without giving them a more central role in social governance in return. On the contrary, their role has become increasingly marginalised (c.f. above the rulings of the European Court of Justice). Salaries are decreasing. Inequality is growing, pockets of poverty are developing along with this lowering of salaries. In this regard, it is interesting to note that the *Celtic tiger* is also one of the EU countries that is most affected by poverty. One has therefore to conclude that the Irish no vote mainly originated from the most underprivileged groups and young people caught in the low salary trap. It is significant that the media did not pay much attention to the opinions of the Irish unions who were very critical about the role played by neo-Liberalism in Europe which had had such a negative effect on their country.

¹ The Laval ruling in Sweden, the Viking ruling in Finland and the Ruffert ruling in Germany

² Draft adopted by the Council of Europe by qualified majority, due to the reversal of France and denounced by the Belgian and Spanish ministers of employment as social regression and a return to the 19th century.

How to make the authorities understand that the majority of Europeans, at least on the European continent, have refused this Anglo-Saxon inspired model which they see as a source of inequality and even social unrest, a model that discards the tenets of cooperation and places social systems in competition with one another.

Europe is an economic power that set a high level of social standards, a fairer and more equal social model underpinning a range of democratic values. This is unique in the world. If for a long period of time, compared to other areas and to the USA, the EU remained a less egalitarian area, it is because the tax and social systems play a central role in redistribution of wealth. the Social Europe we are supporting is not only value-based, but, at the same time, a necessity and the only recipe to achieve long-term economic strength and ecological and social sustainability³.

It is therefore up to Europe to ensure that its social model is preserved and consolidated, that it remains *socially sustainable*, and lastly, that it is promoted within the context of globalisation. This was the message of our most recent biennial meetings and the conference held in Saint-Etienne in October 2006. Europe's economic power is certainly still viable but there is a risk, faced with the rising economic powers of India and China, that it will be reduced. Nevertheless, Europe has a role to play here and now. It may well be too late tomorrow. Using its economic and political weight, it still has the means to hold up a model with raised social standards, to speak up for the values of democracy, solidarity and justice instead of aligning itself with the least meaningful social model.

The withdrawal of the people of Europe faced with a process that is developing far away from and even against them requires a complete change of attitude. We have to place the citizens, i.e. social democracy and social issues, at the very heart of the matter. We have to revive the social dialogue and give a predominant place to national and European social players and to collective bargaining. That is what this biennial means – placing the social players once again at the centre of the relaunching of Europe. It is through this social dialogue that they will undertake at all levels to give meaning to European integration and give it a new impetus.

During the fourth meeting of Europe Work and Employment in 1996, we wrote an introduction *Whether or not Europe will be social*. So what is it today, more than 10 years after? For this ninth meeting, we have therefore decided to reposition ourselves on the bases of our biennial meeting and the European social model.

The discussion on growth, salaries and the social dialogue within the EU is the leitmotif of the conference. How can industrial relations, as they are developing in the member states and at European level, still have an influence on the great social issues, industrial restructuring and investments and on the fixing of salaries at a fair level?

Regarding the global and European economic and financial situation, what new approach to salaries should there be at world and at EU level and the European and salary debate in Germany.

The first workshop will deal with wage negotiations in the member states and at supranational level. Where is wage negotiation in the EU at the moment? Has the phenomenon of low salaries appeared everywhere in the EU? What about those wages and salaries that are not

³ Cf the summary of the platform-document of the ESM-network.

covered by collective bargaining ? How can wage negotiations be coordinated at European level?

The second workshop will firstly examine the development of representational systems of salaries and collective bargaining in the member states based on the German example. It will then examine the appearance of transnational collective bargaining in European companies.

The third workshop will deal with the highly strategic question of industrial policies in Europe based on two key examples – energy and the economic and social aspects of the electricity market in Europe and railway transport, an economic lynchpin for regional development.

CENTRAL THEME : growth, wages and the social dialogue in the European Union

1. Economic situation and prospects

At the time when the 9th Lasaire Biennial is being held, what is our economic and financial situation on a European and on a world scale? What are the economic prospects in the medium and the long term? And what are the implications more specifically for employment, income and the distribution thereof, and for purchasing power?

After the burst of the Internet bubble in mid-2000 and the serious slowdown in growth up to the end of 2001, the world economy had again become dynamic and had registered a high growth rate (5.1% in 2006, 5.0% in 2007), driven chiefly by China (more than 11% per year) and India (more than 9% per year).

Nevertheless, these remarkable performances have created their own antidote. Under the effect of the strong increase in world demand and, partly (albeit minimally?) due to speculative behaviour, the prices (in dollars) for energy, mineral and agricultural raw materials have really skyrocketed, offset only partially by the revaluation of the euro. For countries that are net importers of such commodities, this rise in prices has triggered the dreaded phenomenon of *stagflation* where inflation and stagnation of economic growth are combined. All forecasts for 2007 and 2008 reflect this potential double downturn at the world and the EU scale, as well as for the euro zone.

Nevertheless, this economic downturn is not merely an after-effect of the very strong acceleration of the major emerging countries. It is also an “aftershock” of the *subprime* crisis that erupted in the summer of 2007 in the United States and spread to the banks of western -- and even of certain emerging -- countries. A massive injection of cash by the central banks (the Fed, ECB) certainly helped to prevent a collapse, but it will probably take sometime before the banks can restore their equity capital, while the credit conditions granted by the banks have been tightened. As to interest policies, it is well known that they do not follow the same rationale in the United States as in the euro zone.

The slowdown in growth is moreover turning out to be more serious than expected. Statistics for the second quarter of 2008 show a decline in GDP from the previous quarter and a correlative drop in employment in France, Germany, Spain and the entire euro zone.

The slowdown in world demand in turn relaxes the pressure on prices for energy, mineral and agricultural (wheat) products which recently turned around. Imported inflation should therefore drop and weigh less heavily on purchasing power.

In such a volatile economic context, it is difficult to make out the prospects in the longer term. And yet, several basic data appear to stand out. For instance, the world population which, according to UN projections, will increase by 37% by 2050 (and then grow at a slower rate thereafter), implies a considerable increase in the world’s food needs. Furthermore, if the fight against global warming is taken seriously, fossil-fuel energy (oil, gas, coal) will have to be massively replaced by non-carboniferous sources, or carbon will have to be captured and confined – efforts that all require technologies far more costly than the generation of energy from fossil fuels: sustainably (very) high energy prices are to be expected, therefore, which

will restrict demand and induce and incite technological innovation. These energy prices will also depend on the relatively rapid rate at which emerging or developing economy will catch up.

Reflections on the desirable trends in employment, qualifications, research, standard of living and lifestyle, social cohesion as well as food and energy security in the European Union must undoubtedly take account of these long-term world prospects.

Shouldn't the *tripartite social summit* (a new form of the “*macroeconomic dialogue*” introduced by the Cologne European Council in 1999), which brings together the leaders of the European Union and the social partners every year in March, accord greater importance to the analysis of the socio-economic situation and prospects in both the short term (high cost of raw materials, recession threats) and in the long term, as well as to the most appropriate responses on the economic and social front at EU level and in particular the euro zone?

2. Wage development

In the macroeconomic context outlined above, the question of wages is particularly important on more than one account.

Globalisation has relied in particular on wage competition throughout the world, bringing to bear substantial pressure on wages and resulting in an increase of profits for large multinational conglomerates and of remuneration for shareholders. The acceleration of world growth has been accompanied nearly everywhere by worsening internal inequalities, more or less pronounced depending on the countries, taking into account their tax or social redistribution systems. It would therefore be useful to take a look at the wage dynamics during the biennial.

The question arises at international level. The most striking case is that of Chinese super-competitiveness, resulting in large measure from a policy of very low labour costs and very undervalued exchange rates, which has enabled China to become the “workshop of the world.”

Equally as striking, however, is the contrast in competitiveness between the Member States in the euro zone with the considerable trade surpluses of Germany (but also of Austria, the Netherlands and Belgium) on the one hand, and the trade deficits of France, and even more so Spain, and to a lesser extent Italy, on the other. However, it would be interested to compare the wage developments in these different countries in consideration of the productivity developments over several years and during the recent period.

In this respect, the European social agenda 2000 recommended a wage development and productivity gain monitoring watchdog to promote transparency and to avoid the uncooperative games observed before the creation of the euro zone, a period during which several countries tried in turn to limit their imports and boost their exports by exploiting the labour costs in relation to the other Member States. This provision of the social agenda 2000 had virtually no follow-up. It would be interesting to find out why not.

Nevertheless, a wage development that incorporates productivity gains, i.e. that secures stability in sharing the added value between the wage bill and the gross operating surplus, may be accompanied by pressure on purchasing power if, as already occurred recently – the

price of imports rises rapidly, entailing a more rapid increase in the consumer price index than that of the national GDP.

The question of purchasing power has actually led to many demands in the European Union (and in other countries) from wage earners, but also from several other social categories (fishermen, transport companies). Whereas the increase in imports is necessarily supported by the national community, the question nonetheless arises as to how this effort should be distributed among the different categories for the sake of fairness and social cohesion. Such a distribution of the effort is all the more keenly required in a society where inequalities have grown wider and where the most vulnerable are also those who devote the greatest part of their income on expenses that cannot easily be reduced such as food, transport and heating. It then comes down to figuring out to what extent and in what form income from gainful employment should be supplemented by appropriate solidarity income.

Shouldn't these questions concerning wage development in connection with productivity gains, but also in terms of trade, be an integral part of the "macroeconomic dialogue" at EU level and in particular in the euro zone, at least once a year during the "tripartite social summit," and more specifically under a regular and transparent monitoring arrangement?

3. "Renewed" social agenda

In its Communication of 2 July 2008, the Commission proposes a renewed social agenda already mentioned.

It points out that "Actions in the social field are primarily the responsibility of the Member States and have to be taken closest to the citizen at national and sub-national level. The EU's powers and responsibilities in the social field are limited. However, the EU, with its blend of shared values, common rules and solidarity mechanisms, is uniquely placed to work in partnership with the Member States and stakeholders and foster cooperation to manage socio-economic change, particularly the change driven by globalisation and technology."

For this renewed social agenda, the Commission fixes "three goals of equal importance:" creating opportunities (generating more and better jobs); providing access for all (to education and healthcare); demonstrating solidarity (in particular giving support to those who are exposed to temporary, transitional problems of globalisation and technological change).

It sets the following priorities:

1. Children and youth
2. Investing in people, more and better jobs, new skills
3. Mobility
4. Longer and healthier lives
5. Combating poverty and social exclusion
6. Fighting discrimination
7. Opportunities, access and solidarity on the global scene

The Communication finally insists on the role of the European Social Dialogue, "one of the cornerstones of the European social model." "The EU will continue to facilitate the Social Dialogue, including at sector/industry level, and the implementation of European framework agreements by the national social partners."

The national social partners are concerned by this entirely renewed social agenda. Items of particular importance could be broached during the Biennial. The implications of recent judgements, which fall under item 2 on mobility, have already been raised. Other issues could also be broached, such as:

- Under item 2: the means and resources to generate more and better jobs; the trends in the concept and provisions relating to “flexicurity;” the proposal for a “directive to improve the working of the European industry committees so as to ensure the social dialogue in case of restructuring operations;” “the anticipation and management of structural changes;”
-
- Under item 5: the situation and prospects of social services of general interest.

The Biennial could, in the light of this work, support the items on the renewed social agenda that it considers the most important and, where warranted, propose additional items, such as those mentioned above on wage development, productivity gains, and terms of trade.

THEME 1 – negotiating wages in the EU

1. Wages collective bargaining in Italy

The purpose of this announcement is to suggest a framework of analysis for updating the situation on the pay negotiations in Italy and the discussion about their development.

Italy is not an exception. As has been the case in the other industrialized countries for about twenty years, the weight of *remunerations* has also retreated in Italy. Purchasing power has globally declined, as has the share of employees' remunerations in relation to revenues as a whole. While for the active population as a whole this decline is relative, in some sectors and for some categories of workers, this decline is absolute. The explanation for this change is the same as in the other western countries, namely globalization. But there are also other more specific causes. Here in broad outline are the facts of the problem.

In July 1993, the government, the trade unions and *Confindustria* (the union of Italian employers) signed an important agreement, by which, in exchange for consultations on economic policy and pay restraint with a view to stifling inflation, the conditions would be met to stabilize the economy and public finances and to rejoin the group of other European countries. It should be borne in mind that this agreement took place shortly after the exceptionally serious crisis of September 1992 when Italy narrowly avoided suffering the same fate as Argentina. .

As for the trend in remunerations during the following years, reliable researches reveal the following features. Remaining with the overall average, the level of remunerations resulting from the negotiations on the national level deteriorated slightly in relation to the level of inflation. The CISL research centre calculated that between 1993 and 2001, remunerations increased by 24.8% compared to inflation of 26.2%. IRES CGIL gives similar figures : depending on the sectors of production, pay increases lost an annual average of 0.3% to 0.6% in relation to inflation (only the trade and tourism sectors succeeded in “beating” inflation). If now the share of « actual » remunerations resulting from enterprise negotiations are introduced into the calculation (in Italy, unlike the Nordic countries national negotiations coexist with enterprise level negotiations), the average increase in remunerations succeeds in compensating the level of inflation, and even in some cases slightly exceeds it.

The problem is not settled for all that. It must be examined in all its complexity! On the one hand as we mentioned, the overall averages have the effect of “ironing out” the differences between the pay averages calculated for the different production sectors and so show up sectors where the people earn relatively less. But two other factors must be taken into consideration. On the one hand, the calculation of « actual » remunerations does not concern all employees, or even a majority of them. In fact, second order negotiations, i.e. those that take place at the level of the territory or the enterprise, only exist where the trade unions are strong. Therefore SME's have to be excluded and, more generally entire sectors of activity structured on this model.

A study by the statistical office showed that in 2001, company level negotiations concerned only 9.9% of those employing more than 10 people, or some 3.2 million employees. In other words, this same percentage corresponded to 90% of employees working in the means of transport sector, to 75% of that of electricity, gas and water, and to 52% of financial

intermediation. In the wood and furniture sector this percentage falls to 26%, to 11% in tourism and to 10% in the leatherware and footwear sectors. Overall, enterprise level negotiations benefited 44.5% of employees in the North West, 37.5% in the North East, 34% in the Centre and 34.3% in the South and the Islands. It can be concluded that two thirds of Italian employees come under national level negotiations. For an unquantifiable proportion of them, bonuses granted by the employers must be added. The share of wage remunerations has significantly declined. If the CGIL is to be believed, it declined from 36% in the years 1980/1982 to 29.5% during the years 1996/2001. In his assessment report for 2007, the governor of the Bank of Italy, asserted that the purchasing power of employees had not changed since 1995.

In absolute terms, a certain number of workers have really got poorer. But workers as a whole have got poorer in relative terms, to the extent that their share of total national income has declined and that the value of their remunerations has fallen ! How can this situation be explained ?

The 1993 agreement on *wage restraint* (certainly not the only one of this type in Europe) aimed at stabilizing the economy and its effect was decisive. But its mechanism turned out to be not very favourable for the economic interests of the employees themselves. On the one hand real inflation always turned out to be higher than the forecasts, on which the negotiations with the trade unions were based. Moreover, wages always catch up in the following « round », that is to say with at least two years' delay, resulting in a loss of earnings in terms of purchasing power. In addition, major progress in productivity (more than 19%) only partially benefited employees, and only part of them, insofar as negotiations at company level were themselves less numerous.

There are also other reasons, which have no connection with the effects of the 1993 agreement. «That was the same scenario everywhere in the world » the economists repeat. After the end of the fixed exchange rate system, companies had to learn to confront new shocks, and there is no doubt that employees served as shock absorbers in that situation. Tito Boeri, an economist at *Bocconi University*, emphasizes that the phenomenon is not restricted to Italy and that it must be set in a wider context. « This is a concomitant phenomenon with the reduction in the weight of the trade unions, both in political terms and in terms of membership. It is also in part an effect of entering the Monetary Union. When it is no longer possible to devalue to “recover” competitiveness, disproportionate wage increases, at least in the sectors exposed to international competition, lead to the destruction of jobs. In these conditions the systems of national level negotiations, as they exist in Italy, become more fragile and less capable of obtaining a greater share of GDP : the trade unions themselves are aware that they must moderate their demands, if they don't wish to create unemployment”.

The situation is therefore complex and difficult to modify. A debate (a confrontation) began between the trade unions and the employers' associations about the means of achieving it. Must the system of negotiations be modified? But how? Opinions are divided. Boeri himself observes that « the only solution would be that of a more decentralized type of negotiation. But this is only conceivable where the trade unions are stronger”. Consequently, the risk would be that a more or less large part of the employees would not even be able to have these modest increases that national level negotiations guaranteed them. “There would be a situation in which wage differences increased depending on the sector of production and the company. In fact it would be necessary to keep the institution of national level negotiations, which nevertheless remain modest. At the same time, it would be necessary to spread the

practice of decentralized negotiations as much as possible'. The employers' associations see the need to adopt « anglo saxon » type systems of social relations, which means emptying national level negotiations of any real purpose. For their part, the trade unions advocate territorial level negotiations with the risk of creating regional disparities in Italy.

2. Low Wage Employment in Germany

I- For most of the post-war period Germany was renowned for its balanced income structure. This was regarded as one of the key elements of the „Social Market Economy“ as it was designed after WW2 and kept as a guideline for the different governments in the following decades. Beginning already in the eighties and accelerating from the middle of the nineties onwards, however, the proportion of low wage earners, measured as a percentage of the overall workforce, has been constantly increasing. Moreover the growth rate of that proportion has been very high in comparison to other countries, bringing the German figures (22%) above the level of the UK and close to those of the US (25%). There is no other country in continental Europe with a higher percentage of low wage earners in their workforce.

Most recent figures that were published early this year use separate threshold values for East- and West-Germany to identify the percentages of low wage earners. The values are € 9.61 (west) and € 6.81 (east) respectively. Using a common value for east and west (€ 9.13) does not influence the overall percentage of low wage earners considerably (22.6% versus 22.2% using separate values). Threshold values are defined as 2/3 of the median, i.e. the most frequently paid hourly wage.

II - The sharp increase in the percentage of low wage earners from 15% in 1995 to 22.2% in 2006 - an increase of 43.3% in little more than ten years - was accompanied by decreasing averages of those wages in 2005 and 2006. This means that the most recent figures tell us, that the growing number of low wage earners is not only falling back in a relative way, but their absolute income values are deteriorating: More and more people earn less.

In 1995 the majority of low wage earners (58%) were full time employed. In 2006 this percentage has dropped to 46%, while now 54% are part-time or „Minijobbers“, showing that the growing part of those precarious forms of employment simultaneously contributed significantly to the growing low wage sector.

Especially high percentages of low wage earners are shown among low qualified labor (45.6%), among women (30.5%) and among employees under 25 (56.3%). All these percentages have been increasing considerably in the decade under consideration.

We find that among the low wage earners the level of qualification is now higher than it was in 1995. Because of the fact that low wage employment among qualified labor has risen from 13.6% in 1995 to 23.1% in 2006, and since qualified labor forms a big part of the overall workforce, today more than two thirds of the low wage workforce are qualified either by professional training or even higher valued education.

III - The number of employees in the German economy suffering from low wages has exceeded 6.5 millions. Their average hourly wage in 2006 was € 6.89 in West-Germany and € 4.86 in East-Germany. Analysis shows that the share of low wage earners has been growing especially fast in those sectors, where the wage level was already below average and where

the coverage of bargaining agreements is weak. Outsourcing, temporary employment and deductions from wages of „Minijobbers“ support the tendency. Political decisions concerning further deregulation of temporary work and a new legal framework for „Minijobs“, enhancing their broadening, in 2003 contributed to putting more pressure to the lower parts of the wage levels.

IV- Case studies show, that the increasing number of low wage earners and the decreasing average low wage puts the whole wage spectrum and the bargaining agreement structure under severe pressure. More and more often unions find it necessary to bargain for concessions to save jobs or keep companies in operation.

In this context it is alarming that the German economy shows the biggest low wage share in continental Europe. In no other country the low wage sector grew as fast as it did in Germany during the past years. Still more alarming is the fact, that until now in Germany there is no lower limit, neither by minimum wage as in most comparable countries nor by comprehensive bargaining standards like in Scandinavia, which prevents a further erosion of wage structures and puts an end to the „wage race to the bottom“.

Source: For more details see: Institut Arbeit und Qualifikation der Universität Düsseldorf/Essen, Report 2008-1 (by Thorsten Kalina and Claudia Weinkopf)

THEME 2 – evolution of employees representation systems, transnational collective bargaining in European firms

It was in 1970 that the European Commission proposed, for the first time, to what was still only the Europe of Six, a draft employee participation system for a future European limited liability company statute. Three forms of participation were foreseen simultaneously :

1. European collective agreements concluded directly between the company and the trade unions represented in the different establishments,
2. a European works council which should be regularly informed on the development of the company's economic and social parameters and which should be consulted beforehand about all important measures.
3. the participation of workers' representatives in the supervisory body for at least a third of its members, a certain number of these representatives having to be external to the enterprise.

The Commission's project immediately encountered hostile reactions on the part of the social players, not only on the side of the employers' organizations, the majority of which were hostile to this type of worker participation, but also on the side of the trade union organizations. Indeed, most trade unions in the Europe of Six, particularly in France, Italy and Belgium, were at that time opposed to the German system of co-determination which they assimilated to class collaboration.

Since then, the different aspects of the Commission's project have met mitigated fates..

- The European collective agreements dossier has progressed, particularly thanks to the Maastricht social protocol of 1991, but since then it has come up against the British refusal to transfer competence for legislation in the matter of trade union rights and the right to strike to the European level. At the present moment, the Commission modestly hopes to propose for the social partners' discussion an « optional legal framework » for collective negotiation at the level of transnational enterprises, but it is confronted with the strong hostility of the European employers.
- It is the second dossier that has made the most progress, since it resulted in 1994 in a directive on European works councils. .
- As far as the third dossier is concerned, the participation of workers in the governing bodies of the European Company, the process was, after a long pause, relaunched in 1988 by the European Commission under the presidency of Jacques Delors. Just as for the European works councils, the reactions of the employers' organizations were hostile. The trade union attitudes have however evolved. The European Trade Union Confederation (ETUC), created in 1974, welcomed the Commission's initiative, a manifest sign of the end of the initial hostility of some of its members. However, it was not until 8 October 2001, that is more than thirty years after the first project of the European Commission, that the statute of the European Company was finally adopted by the European Council of Ministers, in the form of a regulation completed by a directive on "the involvement of employees".

The workshop proposes to take stock of these different methods of employee participation in Europe.

For the first channel, which concerns the intervention of the employees in the economic choices, the inventory will concern in the first place the different European models. It is necessary to start by assessing co-determination in Germany, since the participation system proposed by the Commission in 1970 corresponded, in fact, to the system then in force in Federal Germany (before a reform, in 1976, generalized joint co-determination, which up to then had been limited to the coal and iron sector, to all big companies). At that time, no form of employee participation in the governing or supervisory bodies of enterprises existed in the other countries of the Europe of Six. Since then the situation has greatly changed. Today, of the 25 EU countries, only 7 have no legislation of this type : 3 among the 15 old member States (Belgium, Italy and the United Kingdom) and 4 of the 10 new member States (Cyprus, Estonia, Latvia and Lithuania).

As far as collective transnational negotiation is concerned, two levels must be distinguished : the inter-professional and sector level on the one side, the enterprise level on the other. On the inter-professional and sector level, the agreements which are a matter of the European Union's social competence, may, on the request of the social partners and on the proposal of the Commission, be implemented by a « decision » of the Council of Ministers, which generally transforms them into directives intended to be transposed into national law. Alternatively, the agreements are implemented on the national level "according to the procedures and practices specific to the social partners and to the member States". How can the European agreements concluded in these different ways be assessed quantitatively and qualitatively today?

On the level of transnational enterprises, the first attempts at negotiation were those begun in the years 1960-1970 by the international trade union federations (ITUFs), then called *international professional secretariats*. The initiatives of the European Works Councils (EWCs), coordinated with the strategies of the trade union authorities on the national, European and global level, gave a new impulse to transnational negotiation on the level of enterprises.

Unlike what is happening on the inter-professional and sector levels, there is no European legislation concerning the European social dialogue on the enterprise level. In its communication on the European social dialogue in 2004, the European Commission referred for the first time to its intention to propose a European framework for transnational collective negotiation including the enterprise, sector and regional levels. Where are we on this project today?

Certain transnational enterprises have not waited for the establishment of a legal framework to conclude transnational agreements, whether at the global or European level. As for the signature of these agreements, several players are involved, alone or in a coordinated manner. The multiplicity of signatures asks the question of the coordination of the trade union player at different levels of intervention not only so that these agreements can see the light of day but also so that they can have effects in terms of their application and their follow up. It also asks the question of the distribution of roles between the trade union player and the works councils. And, finally, it asks the question of the articulation with the other levels of transnational negotiation in Europe.

Employees' Representation Systems: The German Example

I - Hidden behind the rather pedestrian expression of „Employees' Representation Systems lies a totally thrilling set of problems and perspectives. Participation, codetermination and democracy in the economy have a long history of discussions and political action not only in Germany, but in most European countries. And they will - that is what I hope and regard as a necessity - have a brilliant future. Every one knows that discussions and actions took a different course in different countries and this caused different outcomes and attitudes.

I shall try to supply some information on the German experience of social partnership and conflict resolution; and I put these two terms in one sentence without hesitating, because social partnership has not very much to do with harmony. It is rather a special way to deal with conflicts. And, as we all know, there are no societies or groups in society not having all kinds of conflicts.

Before I proceed to some information concerning the German principles of participation and codetermination and its political status let me make a more general remark. I am convinced that presently the democratic substance of the EU is at stake; and this is not only a question of elections or the constitutional treaty, but just as well a question of how conflicts are dealt with and which share and means of real influence employees will have in resolving them. The great idea of European unity will only have a future, if the man in the street knows that he himself has a share in this future and that he himself can influence effectively the shaping of his working and living conditions. The EU has to develop at the same time a social and a democratic character, and not just an organisation of free enterprise and markets.

II - Many parts of the working life, like remuneration, limits of weekly working hours, health and safety provisions are determined in labor laws or collective bargaining agreements. At the same time, however, these conditions are subject to daily conflict resolution on plant level or in companies.

Germans - and they are famous for that - have a law for everything. Thus the Works Constitution Act (1952/1972) gives specific rights to single workers and especially to works councils, a body elected by the whole workforce and not formally connected to union membership.

What are the problems dealt with at the workplace and on plant level?

- When economic decisions are taken, which frequently have a negative impact on workers' interests, the works council merely has the right to be informed comprehensively at due time;
- The right of works councils to interfere with the introduction of new technologies is codified in an unsatisfactory manner;
- The works council may, under certain circumstances, appeal against individual management decisions concerning a member of the workforce;
- The works council has the right of codetermination concerning the times at which daily work schedules start and finish;
- The works council has the right of codetermination concerning the remuneration system, including the fixing of rates for piecework and bonuses;
- The same applies to the form taken by, and the running of the company's social facilities.

The German unions regard this catalogue as being insufficient, while the employers federation condemn it as too extensive and an obstacle to managerial decision-making.

More and more the shaping of social reality on plant level is getting a European dimension. That is, why the German unions appreciate very much the European works council directive and its further development.

There can be no doubt, however, that the recent proposals by the commission fall far short from what is necessary. European works councils have to become a real instrument of influencing decision-making and not just better information, which of course is better than nothing.

The second core element of employees' representation in Germany is the supervisory board codetermination. And again Germany has a law for that, which is called the Codetermination Act and was passed in 1976. It secures codetermination on supervisory boards of companies with more than 2000 employees on a near-parity basis.

Without going into the details it is justified to say, that, in spite of all limitations, the supervisory board codetermination has proven to be an efficient instrument of spreading information and - if properly used - of influencing decisions of companies or corporations, especially decisions of a strategic dimension.

III - It is obvious that the outlined regulations are under political pressure, They are under pressure by proposals from the side of employer federations. These proposals are:

- replace the near-parity representation by one third,
- abolish the codetermination law in the iron and steel and mining industries completely (a law from 1951 achieving „real parity“ in a declining sector of the economy),
- union representatives from outside the company shall no longer be elected into supervisory boards.

It depends on political majorities, if these proposal become political reality. They have not yet gained real impact, because there are very many individuals among managers and employers who esteem the value of cooperative conflict resolution and try to preserve the cooperative climate in their companies.

More serious to me, what is happening on the European playing field :

- The existing directive on the European shareholder company,
- the directive on free choice of location in the EU,
- the directive on cross border mergers.

All these can be abused to cut down codetermination rights to a minimum.

My opinion is that all parties involved should be able to develop a common position in the sense, that effective workers' codetermination and participation is a core element of Social Europe; thus shifting the discussion from the principles to the adequate forms. And this has to be more than social dialogue, to leave no doubt about that.

IV Let me add a few consequences from a German point of view.

- We have to push for the democratic substance of our ideas among the workforces in the plants and on the political scene in our country..
- We have to push for it among European unions and in the European Parliament.

We have to push for it without a sense of mission, without arrogance or complacency. There are no reasons for neither of those. But we have to be sure about our democratic principles, which are not limited to elections every four or five years. Democracy is not a question of periodical elections only. It is rather a way of living. And that includes forms of effective employees' representation, as it says in the title of this workshop. Or rather forms of democratic participation in economic decision-making.

THEME 3 – what industrial policy and regional development : examples from energy and transport

European industrial policies and the regions : Energy and the railway sector

At the dawn of this 21st century, Europe's economies show, one after the other, signs of weakness in a context of globalisation marked by the emergence of new growth centres. While France and Italy are often quoted as the bad pupils in the class, it is Ireland that is showing signs of exhaustion and distress signals (whether excessive or not). In a longer perspective, it should be possible to brush aside the diagnoses and criticism which are more like preconceived ideas, old ideological ideas such as the industrial economy which were fashionable in their time. The least one can do is admit that there is not one single cause and that action should be taken on several fronts. Lasaire has on several occasions emphasised the need to adopt a cooperative approach, at least in the Euro zone and in the economic and monetary management of this area.

However, 'the return' of industrial policies should also become an area of cooperation and not only a field of competitive confrontation where each wins only what their neighbour loses. The concept of 'industrial policies' is rehabilitated and what remains to be defined is the sound use of this concept and to examine whether for certain sectors of the economy it cannot be implemented at the level of the European Union as the 'relevant area'. This could be the case for energy and transport. These two sectors are all the more suitable as they are at the heart of strong and sometimes contradictory issues and requirements: sustainable development encompasses all the ingredients of this complex alchemy to be created and entails the requirements and opportunities that affect these two sectors. Depending on the approach adopted, innovative solutions could emerge: collective transport, in this case the railways, as a condition for the balanced development of the regions and therefore of the level, quality and distribution of jobs; energy is an indispensable resource and its production and use are constrained by the need to adopt an approach that respects the environment. These two sectors constitute a very wide field of activity including domains upstream and downstream: research, design, the public building sector, the existence and efficiency of specialised operators. These areas affect the large companies, the SMEs, the public authorities and the State, and highlight the human factor: brains, qualifications, organisation of work, labour relations, the socio-economic players. They also concern definition of the public sector and the question of privatisation (RU, FRG).

Energy and the railways

These two sectors have considerable potential in Europe, in particular in countries such as Germany and France that have attained excellence, a potential for direct employment in engineering firms, production sites, services and major operators. Leverage for the development of the regions. A possible tool in the service of different growth, respectful of the environment, conducive to the quality of employment, committed to serve the general interest of the regions, countries and the European Union.

This statement may tend towards optimism. The fact is, however, that there are differences and discrepancies between the various economies in Europe.

In rail transport, France excels in passenger transport but has a major handicap in freight, which is where the Germans have unquestionable superiority. How do the players respond in the face of this finding? Are these challenges at national or European level? In the energy sector, France benefits from its nuclear power stations – whose appropriateness is the subject of debate – and is restructuring its activities in natural gas in the face of an arrogant supplier in a strong position. Would it not be advisable to define a European energy policy by making our tools reciprocal? Why not an ‘ECSC’ for energy? The concessions of one side would make it possible to negotiate other compromises. In short, how to get to a win-win situation?

A – First roundtable: Energy/Climate

The idea is gradually taking hold that climate change caused by greenhouse gases which is linked to human activities poses a considerable risk to present generations and even more of a risk to future generations and that it threatens the whole planet especially some regions of the world which are underdeveloped. Major international negotiations under the aegis of the United Nations Framework Convention on Climate Change (UNFCCC, 1992) resulted in the Kyoto Protocol covering the period 2008-2012 but only applies to the developed countries, with the well-known exception of the USA. During the conference in Bali (December 2007), all the countries of the world, including the USA and the emerging countries, agreed to meet up in Copenhagen in 2009 to draw up a protocol which should come into force in 2013. The European Union has been a frontrunner since the beginning of this process. In particular, the European Council meeting of 8-9 March 2007 laid down a series of ambitious objectives (three times 20%: see memorandum on energy and climate appended to the present dossier) and the climate and energy package which is one of the points on the agenda of the French presidency of the European Union.

The fight against climate change is therefore an important element for protection of the environment constituting one of the three pillars of sustainable development, the two others being economic and social. This is the reason for the special interest paid to this theme on the agenda of the Lasaire biennial.

The reduction of greenhouse gases affects many sectors including deforestation and agriculture (breeding, bio fuels, etc), residential and tertiary sectors (heating), transport (see below), etc. However, the most polluting sector on a global and European scale is that of electricity production (France is a special case due to its nuclear power plants supplying 85% of its electricity needs). The issue of electricity production is at the heart of the problem of sustainable development especially as electricity, given the current state of technology, cannot be stocked in practical terms and can be interlinked throughout Europe but not on an intercontinental basis (no global competition).

- What are the forecasts for consumption and electricity production in the EU? How can these forecasts reconcile the economic and social needs with commitments linked to limiting greenhouse gas emissions? What are the main aspects with regard to community policies? What are the similarities and differences between the various Member States? What are the areas of and the terms and conditions for possible cooperation?
- Limiting the emissions of greenhouse gases requires major technological development to produce massive amounts of renewable energy (air-powered, solar, biomass, the latter being more disputed), storing the energy produced intermittently, capturing or

stocking the carbon, even considering the nuclear option in the long term, mastering nuclear fission (Iter project). These are all major industrial options. How can we reach the quantitative objectives which were adopted by the European Council in March 2007? What are the opportunities for cooperation or possibly competition between the various research centres and companies? How do we deal with the short-term views of some to satisfy long-term equipment requirements?

- The electricity transport infrastructure (i.e. natural monopolies) tends to conceal the potential for cooperation at EU level. What level of progress is desirable in this respect?
- The production and marketing of electricity is subject to a tender procedure. This may have major consequences for the price (level, volatility) and affect the various economic agents such as consumers, with redistributive effects which could impact on the most vulnerable members of society and would have to be supported by political aid in the form of, for instance, transfers, industrial public structures, in particular employment, qualifications, wages and salaries and public or private shareholders (the State's role as shareholder, e.g. the European Development Fund). What regulatory measures would be required? What type of cooperation between the regulators in the Member States would be envisaged? What role should the social partners preferably play? for consumer organisations? for solidarity organisations?
- With regard to the climate and energy package, which proposals should be supported, avoided or expanded?

B. The railway sector

The railway sector is strongly marked by national cultures but is also strongly interwoven in Europe. Are the assets of each country (e.g. France/Germany) scope for cooperation or sources of competition? And in this case, can one envisage complementarities or even areas of cooperation? Is a compromise possible on the basis of a balance between competition and cooperation? A basis for complementarity?

In France, in Germany and in the European Union, industry manages to design and manufacture high-performance trains to meet domestic demand and improve exports. The public building sector knows how to build infrastructure, service companies and network operators know how to run trains, manage complex situations with guarantees of safety, efficiency and reliability. None of this is without problems, but what has been achieved is impressive, bearing in mind that no situation is ever permanent.

- What does the railway sector represent in terms of employment, innovation, prosperity and exports? How can we make full use of this potential? The position of businesses and the trade unions.
- How should we respond to the demands of the environment and regional planning? How should those concerned deal with the question of freight, freight itineraries, the organisation and management of rail freight, etc. taking account of the needs and requirements of the regions? The role of the state, the Länder and the regions and the role of those involved in regional civil society. How can passenger transport respond to similar demands? What about international links, the brain drain, daily links and the journey from work to home? Problems that affect the transport service and those that

affect the spatial organisation of offices and living quarters. The role of users and community-based organisations.

- What type of cooperation and competitive organisation is envisaged in the European area to make the most of the potential of the sector and of services for the regions? Could the public authorities also exist at supranational level, a type of European state with a genuine capacity to boost and coordinate the type of cooperation required?

Each of these aspects will be explained by a panel of experts with the intention of providing in-depth clarity. In the first part of the discussion, after this overview, those involved who are present will have their say. These will include companies, trade unionists representing the relevant sectors, regional players (elected, civil society). In a second part, the discussion will be open to all participants in this workshop.



LABORATOIRE SOCIAL D' ACTIONS D' INNOVATIONS DE REFLEXIONS ET D' ECHANGES

9th BIENNIAL Europe Work Employment

SOCIAL PLAYERS, RELAUNCHING EUROPE AND GLOBALIZATION ?

REPORT OF THE BRUSSELS SEMINAR

11 January 2008

With the support and partnership of :



COMMISSION EUROPEENNE



Comité économique et social européen

Opening of the seminar

Vladimira Drbalova opened the seminar and proposed that speakers focus their attention on the concept of flexibility, the source of the adaptability that globalisation expects from employers and employees alike.

Robert Mounier-Véhier pointed out that Lasaire intends to participate fully in the relaunching of the social dialogue in Europe. To this end, it is advisable to develop the capacities of expertise required to assess and to monitor the social negotiations at European and transnational level. How to relaunch Europe? The question is being asked at both the national and the euro-zone level, where renewed impetus should be given to the *Cologne Process*. Finally, the new accession countries must be helped to find ways to achieve convergence with the social levels familiar to the countries of “old Europe.”

Discussion of the topic:

The progress of the social dialogue at European level.

Anne-Marie Grozelier, general secretary of Lasaire, proposed the framework for reflection for the seminar: in the first part, to go back over the milestones of the social dialogue in Europe; in the second part, to broach the recent developments of European Works Councils (EWCs) and the issue of negotiations in transnational companies.

Jackie Morin presented the recent developments in the European social dialogue. In its tripartite form, it has since 2003 been conducted in the *tripartite social summit* which has replaced other bodies (in particular the Standing Committee on Employment), and utilises the macroeconomic approach to questions relating to education and employment. In its ‘bipartite’ form, the dialogue can, since the Maastricht Treaty, be conducted both at the inter-professional and the sectoral level, while waiting to find its place shortly at the level of transnational corporations. The social dialogue has toughened since being launched. The documents signed at the outset as joint opinions or declarations have been increasingly veering towards texts of real legislative scope. Since 2002, the social partners have got into the habit of agreeing on a multi-year work programme. By the same token, they are focusing more on the implementation and monitoring of the agreements they have signed. Eleven international agreements have thus been signed, a part of which stems directly from a European directive. Autonomous agreements (article 139) are referred by the Commission to the institutions to bolster their legitimacy.

The social dialogue has been rather slow in developing at the sectoral level through the *sectoral committees*, which are increasing in number every year (35 at present). The most recent concern the automobile and non-ferrous metals sectors. As on the inter-professional front, the social dialogue has developed in two phases: first, contact and a learning period, followed, by a second phase of real negotiations. A few recent examples include: the agreements on the working conditions of seamen (maritime transport sector), agreements in the rail sector in 2005 (with a view to the pending liberalisation) on working time and conditions, rest periods, and the status of the “mobile” personnel, i.e. those likely to cross borders.

The areas open to this type of negotiations continue to grow (training, equal opportunities, anticipation of change, etc.); many things are henceforth negotiable at European level, with the exception of wages and working time that employers wish to keep at the national level.

Three questions then arise:

1. How to develop the social dialogue in sectors not yet covered, some of which are very important, in particular metallurgy?
2. How to intensify the social dialogue and tackle more “sensitive” subjects?
3. How to encourage and supervise the development of agreements in transnational corporations?

Jackie Morin finally insisted on the importance that the Commission attaches to the development of the competence of the social actors. In its Article 5-3, the ESF for that matter provides for supporting, at national level, the development of skills that the social partners should henceforth acquire.

Joël Decaillon pointed out that the notion of European labour market is far from obvious. Yet certain events such as the Vilvorde case or the appearance of the “Bolkenstein” circular, as it is known, as well as various rulings handed down by the European *Court of Justice* have accelerated the awareness raising process.

Rather than focusing on the vagaries of the notion of *contract of employment*, it makes more sense to identify the constraints that the European labour market has to face because of globalisation. It is clear from the outset that the concept of *flexicurity* corresponds to a notion of social organisation typical of Scandinavian countries, which were actually the first ones to come up with it. The generalisation of flexicurity is consequently indissociable from this cultural dimension. Yet other factors should not be neglected, such as demographic movements, structures and traditions of vocational training as well as productivity performance. Each country presents a different instance. There are “trans-European” problems, as it were. For instance, too many unskilled, yet paradoxically too many overqualified or rather “ill-qualified” young people, arrive on the European labour market every year throughout the continent. If the effect of certain variables such as the percentage of very low salaries depending on the countries, or the proportion of employees covered by a collective agreement is added to these basic data, there is no choice but to accept that the introduction of flexicurity will be all the more delicate as it will operate against the background of an extraordinarily heterogeneous labour market.

Four elements must be taken into account to grasp the problem in all its complexity.

1. The rule of law is needed in order to establish a social law that works. Yet this is not always the case in the 27 Member States – it suffices to consider the weight of undeclared employment in the economic life of the States concerned, as well as the organisation of the labour market that ensues.
2. The social partners must be given their due place, not only in the conception, but also in the implementation of the concept of flexicurity, insofar as the aim is to create a set of measures in opposition to personalisation of the contract of employment and its consequences, the effects of which are already being gauged in countries with an Anglo-Saxon tradition such as Australia and New Zealand.

3. The importance of the solidarity mechanisms must not be underestimated either among the preconditions for the success of flexicurity. By the same token, it is necessary to ensure that the entire system is financially guaranteed. In other words, no flexicurity without a major “public financing effort.”
4. Finally, flexicurity must be negotiated within the company. This is what J. Decaillon refers to as “internal flexicurity,” a practice for which the social partners are already prepared, even if they are not familiar with the term. The real problem then tends to lie in the way of federating these internal negotiations from the “outside,” as it were, so as to make them compatible and consistent with measures concerning employees working, for instance, on the same site or in the same job basin and stemming from companies of different size and nature.

Now when the concept of flexicurity is considered by extension, we discover that it has the advantage of going beyond the seemingly insurmountable opposition of *insiders and outsiders*. With flexicurity, it is therefore possible to consider training initiatives concurrently combined with negotiations at European level to reduce occupational exclusion in all EU countries.

Flexicurity is in and of itself an invitation to broaden the perspectives, and consequently, the fields of action open to the social dialogue. ETUC intends to work along these lines, as does *Business Europe* with which informal contacts have been established. New topics are already being broached therein, such as the consequences of climate change on employment in Europe. It is worth noting, in this respect, that all major companies now have a sustainable development department. All these are issues that could be along the new concerns expected to lead to a revision of the EWC directive. The social partners are demonstrating thus their determination to place the EU at the forefront of a certain number of major commitments regarding both social progress and environmental concerns. This may prove a winning asset to give the construction of Europe the political clout it deserves.

Enzo Avanzi noted that like the workers’ trade unions, the employers do not see the notion of the social dialogue in the same light. France, Italy and Spain can be said to interpret it roughly in the same terms. This is not the case in Northern European countries which share another approach to the notion, not to mention that of countries from “new Europe.”

It is also worth bearing in mind that it was long thought that the construction of the EU could serve as a framework for the prosperity of state-owned enterprises. Prospects are changed somewhat now, as we are rather in a “governance” frame of mind, which is perfectly compatible with that of the social dialogue, inasmuch as this notion touches every sphere of society, including the very foundation of individual rights. This type of action is intended to disseminate its efforts in society as a whole.

Toni Ferigo was able to base his analyses on two studies he has conducted, one on flexicurity in Denmark, the second on the social dialogue in Eastern European countries. An initial observation is that a trend towards the personalisation of the contract of employment that had started some ten years ago in Anglo-Saxon countries is now spreading to the rest of the world. Even in Northern Europe, where a social democratic tradition still holds sway, the trade unions are kept away from negotiations when the latter concern wages, working time, or systems of classification. This trend towards personalisation is of course even more

pronounced in France and Italy. The level of “coverage” is down everywhere. This is the result of increasing outsourcing and of the subsidiarisation that characterises the style of contemporary management. All the systems of social relations are affected by it.

Toni Ferigo challenged the official version that holds sway nearly everywhere. Even in Germany, many collective agreements duly signed at times cover, in their scope, practices in the field in violation of the labour laws in force. In short, the old form of regulation seems to have had its day, and the social dialogue has not managed to find any efficacious replacement, but has simply resorted to slogans without any verifiable content, such as the very notion of flexicurity, as Toni Ferigo sees it!

As to Eastern Europe, the new accession countries are in a position to present the full panoply of the social dialogue. But when we go on location, we rapidly note that trade union officials have no say on developments, to such an extent that international organisations, such as the IMF do not even pretend to consult there when they undertake reforms so as to liberalise economies “lagging behind” at forced-march pace. It is high time therefore for the social partners to put their cards on the table, if the construction of Europe is to be given the social content that it officially invokes.

Discussion

Jean-Louis Moynot, Lasaire, wanted to draw attention to the innovation that the activities of certain working parties labouring in the shadow of the European Commission have managed to contribute to the practices of the social dialogue. These groups, in which trade unionists, industrialists, and experts meet on an informal basis, have raised awareness about the changes and technological and economic forecasts. These are initiatives where industrialists grouped in branches, and even sub-branches, invite trade union officials to come and discuss with them the topical issues of the hour. The automobile sector group has for instance afforded industrials and trade union representatives in the sector the opportunity to examine together troublesome aspects of the major changes this sector is getting ready to face.

Ornella Cilona, CGIL, agreed with the warning of Joël Decaillon who sees in flexicurity a way to lean on the status of full-time employees in exchange for an increase in the number of jobs. Moreover, together with other trade unions, the CGIL has initiated discussions to improve the purchasing power of employees. This effort should be publicised beyond the Italian borders.

Vladimira Drbalova, as the representative of the Czech employers, insisted on the importance of a strong interaction between the social dialogue at national level on the one part, and the European level on the other. It is important for the new accession countries to find in such a venue encouragement to replace the former tripartite dialogue (employers, trade unions and State) with a two-way dialogue between the employers and the trade unions. Furthermore, the very existence of these new responsibilities assumed by the Czech employers at European level is bound to structure the social dialogue better at the national level as well.

Jackie Morin wanted to respond to Toni Ferigo’s analysis. Whereas he went along with the observation of an increasing trend towards the personalisation of the contract of employment, he also underscored that an increasing need for coordination is also emerging everywhere at European level. These two trends must be taken into account at the same time, in the event of dispatching or mobility of workers, and the trade unions should naturally be even more

involved than in the past in the running of mechanisms at European level. Nor does he share Toni Ferigo's reservations about the weakening of trade union power in the new Member States as a repercussion of their accession to the EU. In his view, Mrs Drbalova's analysis seemed more pertinent: accession to the EU has strengthened the trade unions and the social dialogue, not to mention the new legitimacy that they have acquired from their participation in the EU. Finally, Jackie Morin in no way interprets the anticipating and change preparation groups of which J-C. Moynot cited as progress in the social dialogue proper; the texts that ensue actually have no effect on the direct operational scope. They have nothing in common with what are known as the bipartite groups where the social partners, employers and trade unions have the capacity to negotiate real agreements in the name of the social remit that they have been given. The two types of group have their value, but must not be confused.

Silvana Paruolo, CGIL, addressing Joël Decaillon directly, wanted to go back to the directive on European works councils. She thought that this directive had already been overtaken by economic, social and environmental developments. It should therefore be revised. It remains to be seen whether such a revision will be at the initiative of the Commission or of the social partners themselves. Furthermore, she agreed with the analysis of Toni Ferigo on putting the finger on this "trade unionism without a real trade union" which is all too often characteristic of the social situation of Eastern European countries, but which also has a tendency to develop in the West. Nevertheless, the fact remains that the opening to the EU has strengthened the position and the role of the social partners.

Michel Guerlevais, UNSA, hailed the positive effect of the social dialogue in Europe. But he thought that the Commission was at one time capable of playing a more important role in these developments. ETUC has for that matter sounded the alarm in a letter entitled "the future of the social dialogue in danger." The current Commission is in fact seen as being tempted more by deregulation, which can only lead to a weakening of the social dimension in Europe. Rules are however needed to ensure that the market does not open the way to social dumping. It is worth noting that many European agreements, autonomous or otherwise, are the result of an initiative taken by the Commission.

Joël Decaillon stressed ETUC's capacity to broach issues relating to the different components of flexicurity. He also contested the somewhat disenchanted view of Toni Ferigo who claims that he can only see a mantra without any concrete content therein. Flexicurity is not geared solely to the conditions defined in the contract of employment. It is actually an entire system. The mere fact that the questions elicited by flexicurity cause not only the Commission but also the European Parliament to intervene leads to the conclusion that the notion covers several fields of action simultaneously. As the new Lisbon Treaty lends weight to the Council of Ministers again, ETUC feels that it is better supported to resist the employers (through Business Europe) who think that the time is ripe to impose a moratorium on social legislation in the EU. For its part, purchasing power comprises issues that remain under the purview of the national trade unions or the branch federations. Needless to say, ETUC is in favour of renegotiating the directive on European works councils, while being fully aware that it will not be easy to do so, in view of the fact that the Commission managed to introduce it only after more than 20 years of fruitless discussions.

Jackie Morin went rapidly over the Commission's stimulating role in the social dialogue. The Commission has actually put two themes on the social dialogue table. First, the reconciliation of working life and family life (parental leave, etc.). It is to be hoped that the social partners will reach an agreement on this matter. Then, there is the matter of "active inclusion."

Furthermore the Commission will as of next year advise the social partners to initiate negotiations to revise the directive on the European works council, and will encourage them to open restructuring cases. Alongside the social agenda, the Commission has introduced the impact assessment procedure for measuring and assessing the social and environmental impact of all the measures that it proposes. If such a procedure had been active at the time that the “services directive” was drawn up, quite a number of problems would have undoubtedly been avoided. This measure will be strengthened under the Lisbon Treaty, a clause of which provides for its implementation.

Discussion of the topic:

The development of negotiations in transnational corporations and the revision of the directive on the European works councils

Anne-Marie Grozelier, opened the second discussion of the day, by pointing out that the European Works Councils did not emerge in full panoply from the 1994 directive, but that they had started to appear well before, in the 1980s, in particular at Thomson, and a little later in Volkswagen. She pointed out that the fact somewhat preceded the law, so it can be surmised by extension that the practices being established for negotiations in transnational corporations, will in a subsequent phase be adequately enshrined and “framed” in a European directive. Thus the law, far from freezing matters from the outset, accompanies them and adjusts to their development. For their part, the Lasaire Biennials can hope to contribute to this elucidation on these stakes.

Having pointed out that there are some 820 European works councils in the EU covering some 14.5 million employees, represented by nearly 19,000 representatives who sit in these councils, **Evelyne Pichot** took stock of the emergence of transnational negotiations in European companies which have increased substantially since 2000.

The Commission was able to list 150 transnational texts of this type. But far more are known to exist. 76 of these are centred on the European area. 61 are intended more for the extra-European area and usually assume the form of international framework agreements. 12 are mixed, dealing with fundamental rights as well as European issues. This represents 91 companies involved, the registered offices of which are mainly in France (European agreements), and Germany (international agreements), in the Nordic countries, and American companies established in Europe (management of restructuring operations in Europe).

These texts are not, strictly speaking, collective agreements. They bear the most variable headings: Agreements, joint opinions, declarations, etc. In certain cases they are formalised as company-level agreements. The main sectors are metallurgy, agri-foodstuffs, finance and energy. The European texts among these deal with restructuring and the anticipation of change in companies.

The signatories of these agreements are, for the employees, the European works councils (which happen to be the main initiators of these texts), the European trade union federations (especially in metallurgy, which is very active), the national trade unions (especially for international agreements on and the financial participation of workers in Europe). The signatories for the employers are management (headquarters), not employers’ organisations.

The appearance of this new form of negotiation outside the existing conventional and legal frameworks leaves a certain number of questions open about:

- The legitimacy of the negotiating actors: in theory, the EWCs are not empowered to negotiate, the national trade union have a field of national representation, and finally the sectoral trade union federations do not always have an appropriate process of appointment for this type of negotiation;
- The form of these texts, some of which are structured like agreements, while others do not provide points that are nonetheless indispensable in an agreement;
- The connection with the other national or sectoral negotiation levels with sectoral aspects, with national or EU legislation;
- The way of solving disputes in time, on the interpretation of the texts or on their implementation. The majority of the texts do not provide mechanisms for this.

The Commission is considering how to support this process. It has included in the social agenda 2005-2010 a proposal to create an optional legal framework for transnational negotiations. It is organising legal studies and exchanges to gauge better the situation and has planned to adopt a communication on this subject.

Evelyne Pichot concluded by mentioning rapidly a question that came up in two rulings of the ECJ in December (Laval and Viking), which deal with the connection between the freedom of establishment and collective action, and the freedom of collective action: transnational collective action that could emerge for the social actors in regard to collective bargaining, in particular in the Nordic countries.

Udo Rehfeldt found in his works confirmation of the observation by Anne-Marie Grozelier, to the effect that the EWCs started to emerge even before a legal framework ratified (and strengthened) the existence thereof. It is also necessary to cite the multiplication of compromise negotiations, in which the EWCs play a dynamic role, as one of the reasons for their existence.

Furthermore, due account must be taken of a certain dissymmetry in the attitude of the social partners. On the employers' side, Business Europe is hostile to the very principle of a European legal framework, whereas ETUC, for its part, wishes that the signing be reserved for the trade union organisations, even if the EWCs take part in the negotiations.

Udo Rehfeldt relied on the study of two major company-level agreements in General Motors and Ford. These were the first two *substantial agreements* (as opposed to simple *procedural agreements*, as had been the case up to that point). These are agreements on the restructuring operations comprising substantial rules.

To have a constraining effect, the substantial rules signed at GM and at Ford had to be duplicated by identical agreements at national, and even local level, precisely because of the lack of a European legal framework. In the European automobile sector, the trade union organisations have a unionisation rate approaching 80 to 90% in most countries, apart from France. By the same token, the EWCs in this sector are fully unionised (although they are a priori a non-union body). The trade unions always make their appearance there as experts. In more concrete terms, there are two or three experts, from one or two countries, who are thus appointed by the European trade union federation (for metallurgy, in the case at hand, the FEM) to monitor the EWC. This is how the European trade unions became involved in these agreements from the outset, which they have also initialled.

The emblematic agreement of this type was signed in 2004 at GM. It was signed by the EWC and a coordinating committee set up by the FEM at the end of a European labour conflict, characterised by parallel, simultaneous strikes in the various branches of GM – in spite of the absence of a legal framework. For example, in Germany, where this type of strike is illegal, work stoppage assumed the form of convening a general meeting of shareholders. There are ways of getting around the law, therefore, even if this complicates matters for the trade unions. We should note that the negotiation of such agreements requires triple coordination. First, in the EWC, where the coordination relies on the existence of a restricted committee. Then at the national and European levels, where the EWC has to liaise with the European trade unions; and finally, between the members concerned of the European trade union federation.

If the negotiations could be successfully completed, the credit lies precisely with this coordinating committee composed of the unionised members of the EWC and permanent union officials from the automobile sector from the countries concerned, under the overall supervision of a permanent official of the FEM. This process is moreover considered by the FEM as the model to follow in case of restructuring. Yet this is at times a vain wish. For instance, immediately after the Forêt affair at Volkswagen, there was no choice but to accept that the national trade unions refrained from informing in good time the trade unions present in the branches abroad that a restructuring problem was forthcoming. The press revealed what had been going on, and not, as expected, fellow trade unionists in Germany. *Interesting question:* Why did these negotiations work out better in the case of Ford or GM than in Volkswagen? According to U. Rehfeldt, the American companies being somewhat “neutral” from the venues, made irrelevant the link of complicity, which under other circumstances may have tempted national representatives and management of the same nationality, in the event of restructuring. This attitude will continue to create problems for the implementation of a really European coordination, given the great temptation of wishing to settle matters at local level. At GM on the contrary, it was easier to negotiate, at European level from the outset, an agreement of principle that saves all the sites, while for their part, management undertook the commitment to confine themselves to measures other than collective redundancies regarding the reduction of the workforce.

Discussion

Jean-Claude Rivard, speaking as the Human Resources Manager of a large pharmaceutical concern, pointed out that many production units in his group have fewer than 50 employees. The size criteria of the directive may not be pertinent perhaps. It would be better to consider that a European works council supposes the pre-existence of local representative bodies; thus, at Bio-Mérieux, JC Rivard deemed it expedient to set up, in agreement with the trade unions, a non-official European works council, composed of representatives of foreign branches that already have works councils.

Toni Ferigo drew a few lessons from his personal experience with international agreements. Under agreements signed with General Motors or Volkswagen in Turkey and Brazil, the standards defined by the ILO ultimately concerned also the suppliers and equipment manufacturers which had eluded them until then. This is the positive effect of these international agreements. But there are negative effects too, inasmuch as the same agreements may cover simple declarations of intent that are in no way restrictive. Finally, there is a big black hole, China, which seems to exempt itself from common obligations or commitments on working conditions. It is significant that the international agreement signed

by Volkswagen with the international metallurgy federation excludes China from its scope of application. It is also the case, to a certain degree, of large American corporations which rather than commit themselves to restrictive agreements, prefer less intimidating “codes of good conduct.” In concluding, Toni Ferigo stressed the difficulty of distinguishing areas of action each time a European works council signs an agreement, the application of which may concern a branch established in a non-European country. In such a case, there may be a conflict of competence between European and international (i.e. world) trade union federations.

Jean-Louis Moynot insisted on the need to relocate the development of European framework agreements in the broader setting of international framework agreements advocated by the International Labour Organisation.

Michael Whittall considered that it is also important to ask why, in 70% of the cases where they should have been introduced, EWCs remain non-existent. The matter is all the more surprising considering that German companies turn out to be the most reticent. A study conducted in six large German companies showed that the works councils established are unaware that they can rely on the European directive to establish a European works council. This ignorance is all the more surprising as they are companies subjected to co-management. This has to do with a refusal to take into consideration what is happening beyond the borders of Germany. Michael Whitehall thought that greater visibility and publicity should be given to the existence of this directive among trade unionists and representatives of workers in German companies. This is unfortunately not the case at this time. As to the reason why American companies are at the forefront in the application of the Directive, he believes this is because most European centres of these companies are based in Germany, and that the initiatives are taken by German representatives.

Evelyne Pichot quoted a few figures: 14.5 million European workers are represented by European works councils, and 7.5 million workers could benefit from them. 40% of companies that have established European works councils cover 60% of the workers concerned by the directive. Furthermore, there have been three decisions of the European Court of Justice, after the preliminary rulings of German courts which specified the scope of information that must be provided to the employees concerned to enable them to determine whether they are entitled to a European works council. Evelyne Pichot also pointed out that European agreements are usually more restrictive than commitments undertaken at international level.

For his part, Udo Rehfeldt underscored that it was not only the European and international federations that were competing with each other, but also international federations between themselves. It's a matter of who will sign the largest number of framework agreements. For the moment, the International Metal Workers' Federation is in the lead. The achievement is all the more commendable because it has the most realistic approach. This federation (as well as that of the chemical sector) accepts, in fact, that an international agreement can be signed also by a European works council. Udo Rehfeldt thinks that it makes sense not to multiply redundant agreements, given the fact that federations have far too few experts considering the work they have to do for each of these agreements. We should bear in mind that European works councils have the means and the staff to tackle this type of tasks. The rise in complaints is a matter not for the councils, but for the trade unions themselves.

Discussion of the topic: Qualification, skills, protection, flexicurity

Jacques Freyssinet introduced the topic with a few remarks. At first glance, the notion of flexicurity seems to bear a certain consensus, providing, as it does in abundance, support for the idea that all the social partners come out winners in this type of measure. Up against such euphoria, a note of reticence is struck. In the view of some researchers, flexicurity has never been the enormous jumble that the Commission has cleverly re-christened it, adding a pinch of social dialogue intended to conceal the highly disparate nature of the measures that fall under flexicurity. Furthermore, the nature of the famous arbitrations to which flexicurity leads is not scrutinised sufficiently. In short, flexicurity is based on the illusion that a harmonious solution can be found for all conflicts, a position that runs counter to every real policy rationale devoted to “cutting through” conflicts.

Furthermore, certain trade union reactions could confirm this scepticism on the part of researchers from the academic world. In the view of some trade union officials (IG Metall in particular), flexicurity has never been more than a useful mask behind which hides a generalised flexibility project pure and simple.

In an attempt to forego the constraints of an overly ideological discussion about this notion, it would perhaps be better to test the hypothesis of harmonising the interests propounded in the official version against defined objectives – and harmonisation of qualifications and skills being one among others. It should be easy, in principle, to convince all the parties concerned about an objective easy to agree on, i.e. raising the level of training; yet this is not the case.

For some years now, companies insisted on the notion of skill, a fluctuating notion inasmuch as it exists only as it pertains to a concrete work situation. By the same token, the problem of the recognition and transferability thereof arises. Furthermore, for a company that invests in training, an adult training policy is a typical case of balancing a sub-optimal market, inasmuch as such an investment is always bound to the risk of the competition reaping the rewards. Companies are therefore tempted to stick to specific qualifications that cannot be transferred elsewhere. This rationale is frontally opposed to that of flexicurity. To do justice to real flexicurity in this field, effectively transferable skills must be devised. But who is going to pay for them? It is difficult to imagine a mode of financing that is not shared.

Furthermore, continuing vocational training measures tend to make inequalities worse. This is a well known observation. The problem will not be solved by merely pointing out that the right to training exists. Even when recognised and posted, such a right is not easy to exercise. It comes down to organisations of work that provide qualifications, capable of making unskilled workers realise the value and contribution of specific skills, through the promotion prospects that ensue. This intrinsic link between vocational training and the organisation of work cannot be ignored for much longer.

Egbert Holtuis wanted to show that flexicurity is indissociable from the idea of a reasonable compromise between the social partners. Flexicurity must be assessed in terms of benefits for costs, which cannot be measured in purely financial terms.

A few figures must be borne in mind. There are some 80 million people out of work in Europe (among whom, 20 million officially unemployed), and many of them would like to find a job again. Studies on this subject conducted by Commission have shown that many

young people lack appropriate vocational training to access the labour market. Flexicurity must then be understood as a way of tackling the problem of unemployment by putting it into a perspective that takes account of all the facts of the problem.

This “wide angle” approach shows that flexicurity can be an advantage for employers and employees alike; for the latter, flexicurity is a formula that enables them to reconcile optimally the constraints of working life with the freedoms of their private life, or to put it another way, periods of withdrawal and training, and periods of concentration on one’s professional career. On the other hand, flexicurity enables employers to adapt to the accelerations and slowdowns of the market. In either case, the notion can be perceived as a form of mutual management of the risks and hazards of economic life.

In more concrete terms, flexicurity leads to flexible contracts and a modernisation of labour law. These provisions are all the more accepted as they are beginning to be implemented smoothly inside the company through an “internal flexicurity” phase. It is already the case in many large companies. But SMEs are also getting down to it, inasmuch as they try to offer compensation, through schemes adapted to the personal situations of their employees, for the slightest attendance to “in-house” vocational training – an investment which always runs the risk of having the competition reap the rewards. Nevertheless, generally speaking, flexicurity is expensive. In Denmark, it corresponds to 3% of GDP.

Until 4 to 5 years ago, the idea of *lifelong learning* had not yet convinced all managers. Yet, occupational careers are growing longer with the increased life expectancy. Iceland, for instance, has implemented training policies geared specifically to those over 55. This approach is beginning to spread in the Netherlands too. The social dialogue must take the initiative as a matter of urgency. For some groups of workers, the main issue is how to secure protection against redundancy. In the Netherlands this question is naturally being asked, although no efficacious measure has yet been taken. The most important thing is that redundancy procedures be conducted in transparency and supervised by the courts.

Flexicurity must also comprise a certain culture of anticipation. It is inadmissible that economic restructuring is carried out with such brutality as to turn hundreds and even thousands of workers out into the street.

Jorgen Ronnest believes that *Business Europe* is aware that the European social systems must adapt rapidly to the challenges of globalisation, the accelerated technological advancements and the aging of the population (to be used as a basis for a policy for extending working life). At the same time, new forms of security for workers are urgently needed, if only to counterbalance the pernicious effects of excessive flexibility. Without these counterweights, there will be no social support for the reforms on the horizon. Universal experience has shown that human beings in general dread change, which is synonymous for the unknown and for anxiety. The problem therefore comes down to creating conditions for making the reforms acceptable.

For a long time, conventional wisdom had it that everyone chose his or her occupation once and for all. In fact, it is easy to show that only a minority of workers has gone through an entire working life without changing jobs. Whether in retail, hospitals, transport or agriculture, few people have gone through a routine and smooth career, putting in 9- to 17-hour days of the same work reproduced day in and day out until the age of retirement. Yet it is this stereotypical image that the fierce opponents of any reform like to invoke and

disseminate in discussions about these issues between the social partners. This propaganda has managed to prevent the parties concerned from becoming aware, with a clear conscience, that a reform of old ways could lead to a win/win situation. It is understandable, therefore, that in its report on flexicurity, the Commission stated that the *status quo* was no longer an option.

In the programme for 2006-2008, *Business Europe* has undertaken to promote growth, reduce unemployment and modernise the social models in Europe. In a document presented to the European authorities, Business Europe put forth 66 recommendations. It is obvious that the concept of flexicurity has not been received the same way everywhere: South of the Rhine, the idea verges on provocation, whereas it is quite appealing to the North of the Rhine. The prospect of having to work in the same company during one's entire career sends shivers up the spine of workers in Northern Europe.

Naturally, each country will have to devise the appropriate solution on how to configure flexicurity in accordance with its own culture. It is therefore not a matter of mechanically copying solutions that prove efficacious in another culture, although this does not mean that cross-influences cannot take place. The greatest danger for the countries that deal with flexicurity most efficaciously would be to content themselves therewith, and in so doing, to believe that there is no need for the further reform to which the unremitting globalisation has sentenced all economies.

Pierre Jonckheer, Euro MP, said that the idea of flexicurity goes back to the Lisbon Summit of 2000. The expert Andersen had set out the most ambitious implications thereof on the basis of an infinitely freer re-description of the relations that individuals could conceive between their occupational career and their personal life, encompassing a radical reconfiguration of the education of children. According to the Danish expert, such an ambition was accompanied by a less exhilarating forecast about the development of the labour market in Europe: the prospect of not being able to create a large number of unskilled jobs, and no hope for promotion.

We should nonetheless bear in mind that the European Union has always done nothing but promote, through the targeted funding, policies to encourage flexicurity, the responsibility for and implementation of which remain in the hands of the Member States. It is actually worth underscoring that there have been no initiatives from the Commission on the social front for some five years now.

Pierre Jonckheer nevertheless wanted to mention a few questions that are being discussed. In Germany, France and elsewhere in Europe, for instance, the same junction arises, and the right choice has to be made: increase salaries or increase taxes? Pierre Jonckheer is in favour of increasing salaries in sectors where they have stagnated for far too long. But such a choice in no way authorises a reduction of taxes: if only, as has already been pointed out in this forum in fact, because flexicurity requires a major financing effort. Whence the excellent question put by Jacques Freyssinet, who wanted to know whether there is any sharing of the modes of financing the training processes that generalised flexicurity would entail. Isn't it time to recognise that public or collective goods and services are needed, especially in education and training, that will necessarily be costly?

Drawing on his participation in the *internal market* committee where the *postal directive* took shape, Pierre Jonckheer pointed out that the call for competition in the postal services concerns a sector where 80% of the costs are accounted for by the wages of the employees

themselves. The pressure of competition will therefore be exerted mainly on this constraint. The left-leaning members of said committee consequently proposed to include in the directive that all the operators must undertake to respect the working conditions and collective bargaining agreements already in force in the sector. Finally, after lengthy debates, the European Parliament refused to include the corresponding provisions in the body of the directive itself, and relegated them to the whereas clauses, i.e. the “recitals,” which confers them a lesser legal value than that attached to the articles in the body of the directive. Care must be taken so that the legislation does not worsen existing working conditions and guarantees in certain sectors.

Finally, the *Laval* case law raises a fundamental question: up to now, it was apparently taken for granted that the legal provisions and collective guarantees in force on the national territories could not be circumvented. Yet the Court proposed an interpretation of legislation in such a way as not to give satisfaction to the Swedish trade unions and to the guarantees for which they were responsible. It is up to the Parliament and to the Council of Ministers to amend the legislation in question so that this type of interpretation is no longer possible.

Discussion

Anne Demelenne, FGTB, pointed out that the observation of a consensus on the analysis of flexicurity is not tantamount to agreement in good and due form by and between the social partners. How can this flexicurity be introduced in the Belgian concerted consultation model? As regards Belgium, in any event, the mechanisms leading to flexibility are already widely, even overly, developed, whether for working time, pay modes, or the procedure known as “redundancy.” For that matter, the OECD ranks Belgium fourth among the most flexible countries. It is to be feared that behind the flexicurity screen, the Commission may simply be trying to deregulate the economy even further, i.e. to hire and fire at will. In any event, how will this increase in flexicurity be financed? For Anne Demelenne, the priorities are elsewhere. They concern questions like how to counter the strong euro, the incentives for research and development and finally bringing energy expenses under control.

Henri Jacot returned to the articulation between flexicurity and qualification policy. There are three types of qualification, he pointed out: the qualification acquired by the workers, the qualification required by companies, and finally the qualification recognised by the official classifications. We should not just stick to the notion of training, but must also think about certification which is the pivot of the tri-partite mechanism of qualifications, skills and the organisation of work.

Jorgen Ronnest thought that the question of the cost of an “active labour policy” must be put in its proper context again. In Denmark, the cost amounts to 0.5% of GDP, and a little below 0.9% in Belgium, thereby correcting the figures put forward by Egbert Holtuis. He also contests the idea that this type of policy weighs particularly heavily on the overall wealth of the country that adopts it, when due consideration is taken of the extremely clear effects that an efficiently pursued training policy can have on unemployment. Don’t unemployment rates of 15% to 18% among young people or “senior citizens” weigh more heavily on the national wealth? Yet these figures drop very clearly when an *active* employment policy is pursued to remedy the situation. In this respect, Jorgen Ronnest specified that, as Business Europe sees it, at any rate, this social policy must not be defined by the European authorities, but must remain under the purview of the national governments.

Silvana Paruolo wanted to draw a distinction between the notion of flexicurity and lifelong job insecurity. Very ambitiously, the CGIL representative proposes to confer, beyond the European institutions, a remit to the competent international organisations, to establish a world labour code by relying on the most advanced practices in Europe. Silvana Paruolo stakes a great deal on the notion of lifelong learning as a measure to be introduced throughout the Member States, at least in the form of recognised *subjective rights* for all European workers. All these mechanisms would find their source of financing thanks to the effects of a methodical rationalisation of public expenses.

Egbert Holtuis underscored that the flexicurity policy recommended by the European authorities must not be administered mechanically and according to the same arrangements in every EU Member State. A country like Belgium may perhaps be sufficiently advanced along this path to forego the European recommendations. Other countries like the United Kingdom or Spain, may on the contrary resort to policy to implement flexicurity in order to curb the rise in casual employment and contracts for a specified period, the percentage of which has reached alarming levels. Similarly, the percentage of the working population stemming from ethnic minorities also has an influence on the unemployment rate. Finally, the self-employed must also be taken into account. Their proportion varies from country to country. A protective regulation must be devised for this type of workers: not one that prevents redundancies not authorised by law, but a retirement system adapted to their situation, etc.

On training policy, Egbert Holtuis presented, by way of example, the case of the army which, in the Netherlands, can provide the foundation for vocational training courses for “civil” employment geared to their young recruits who usually have a very low initial level of training.

Pierre Jonckheer wanted to underscore that the joint report on flexicurity by ETUC and *Business Europe* is intended first and foremost for the Member States and secondarily to the European authorities. No such request has been made to organise the vocational training market at European level. In short, the assessment by the document itself is positive overall.

Pierre Héritier wanted to make it clear at the outset that in his view, the trade unions were reticent about the notion of flexicurity, a “portmanteau word,” as he put it, where anything and everything can be hung. After all, social standards also depend on the turnover, the qualification of workers, and the existence and quality of the industrial policy. Put on this web of reciprocal determination, flexicurity may seem to justify the view that the cursor would function freely only on the work factor – whence the circumspection of the trade unions. This diagnosis having been made, Pierre Héritier acknowledged to the participants that he had managed to free the notion of flexicurity from its ideological baggage. Flexicurity then makes it possible to configure precise social groups on which its mechanisms can produce their effect, e.g. ageing workers. In France, only one worker in four has kept working upon reaching retirement age.

As to the organisation of work to provide qualifications which Jacques Freyssinet spoke about in the introduction, one may wonder whether this type of initiatives depends on the nature of the labour market or rather on the model of human resources management that a company has or has not managed to introduce at the right time; even in SMEs, when they can show a knack for innovation. Consequently, the solution is not always to look for quality of work emerging ready made from the labour market, but also for quality from management in the companies themselves.

Rather than flexicurity, a word laden with all sorts of ambiguities, **Jean Lapeyre** would prefer to talk about making occupational careers secure. The Commission's report did not manage to retain the key idea of the *Supiot Report*, according to which the right to training is not linked to the company in which the employee works, but is attached to the employee him or herself, as a subjective right, for his or her entire working life, even when not under a contract of employment. Each young newcomer to the labour market should have a *drawing right* corresponding to three years of training, to be used as he or she deems appropriate during his or her working life. This idea of a set of rights and obligations attached to training has never convinced employers. Jean Lapeyre pointed out that flexicurity has to be broken in two in order to understand the stakes involved: employers are certainly in favour of flexibility and at European level at that. But, as regards "Security," the matter is referred to the national level, leading to a certain inequality in this area that reflects the wealth of the State concerned, the nature of the redistribution system, and the existing relations of force.

Furthermore, the trade unions are currently facing a certain number of difficulties.

1. The difficulty to control the "grey areas of employment," i.e. those insufficiently protected by collective bargaining agreements. These areas have become so important that in Germany, having long been against the idea, the trade unions have now deemed it expedient to be entitled to a guaranteed minimum wage – a very new idea in that country. Elsewhere also, especially in Italy and in Spain, the trade unions are supporting layers of workers without "full-time" employment contract, but with simply commercial contracts.
2. There are nearly 800 EWCs representing some 20,000 activists of companies, committed to a supra-national task. Unfortunately, the European federations do not have the means to provide them with training that would give them the intellectual tools so that they can extricate themselves from the national framework to which their analyses are too often confined.
3. There is often an unhealthy competition between international and European professional federations, as the latter do not want to be controlled by the former – whence a regrettable lack of synergy.
4. After the entry into force of the "autonomous phase" of the social dialogue, one observation is called for: at best, the agreements fall under the "open method of coordination" (OMC), and not the creation of rights that all workers concerned in Europe may enjoy in future. This is a failure for the social dialogue in its "autonomous" phase, as it has failed to ensure that the agreements it produces have the same force as the law itself. The reason has essentially to do with the absence of the tripartite game, if the Commission does not intervene. It is therefore not surprising that the joint report by Business Europe and ETUC is not very conclusive in the end.
5. The weight of the new Member States has slowed down things considerably in social Europe. These countries are still slowly digesting the "acquis communautaire." As to the social dialogue, it is certainly a fine, three-window façade, yet one that scarcely hides reality, i.e. a tripartite social concerted consultation steered by the State. It is necessary to grasp, in fact, that a tripartite approach functions properly only if the bipartite approach, i.e. employers and trade unions, has already succeeded in creating a real social dialogue.

6. The French presidency has announced a “revision” of the social Agenda. But Jean Lapeyre would prefer to see it seize the opportunity to kick off a far more voluntary social strategy than is the case at present.

Jean-Marie Bergère warned the attendees against an overly binary interpretation of the notion of flexicurity, according to which the concern for flexibility became the obsession of employees. The fact is that employees do need a certain flexibility as to how to manage their occupational careers themselves. For their part, the employers may be interested in a certain form of security, when it comes to retaining the skills of certain employees.

Enzo Avanzi wanted to direct attention on the deep meaning of a notion such as flexicurity. He is wary inasmuch as, in his view, it is a sign of excessive weakness in economic and social thinking. It is a matter of preserving “everything cultural that is left to us,” while waiting for a new Keynes to put a stop to a flexicurity whose non-avowed rationale could lead European societies to a conception of work “the Chinese way.”

Pierre Jonckheer returned to the effect produced by the joint report on the labour market by Business Europe and ETUC. Everything is proceeding as if, in the eyes of most Euro MPs, the ever so disappointing conclusions of this report had been given a maximum legitimacy label, confirming, without any reservation, an agreement by the social partners on the diagnosis and recommendation, providing a pretext for devastating unanimity. It is very reckless for ETUC to sign a report of this nature.

Responding to a question by Jean-Claude Boual, on how the Laval ruling is to be understood, Pierre Jonckheer thought that the Court of Justice saw an opportunity to give a very restrictive interpretation to the posting of workers directive. The Court then sanctioned the Swedish legislation for lack of clarity, inasmuch as any company that enters the Swedish market must be clearly informed of what it may be imposed on by virtue of said directive. This is where the trade union movement must provide a response both at the national and at the European level, and avoid arriving at a situation where, in the absence of restrictions that can be relied upon on national territories, all the operators could give themselves over to unbridled competition. This is a crucial stake for social Europe.

Egbert Holtuis spoke one last time to underscore that the notion of flexicurity could not be understood outside the concrete contexts that may reconfigure it according to its constraints and precautions, and consequently integrate, in the same vein, the marginalised and precarious segments of the population, who may benefit therefrom in accordance to such arrangements as are devised. The main thing, for Egbert Holtuis, is that this seminar showed the fruitfulness of dialogue when conducted without taboos, as Lasaire has managed to do.

Conclusions

Pierre Héritier was, like Egbert Holtuis, sensitive to the lack of dogmatism or apprehension in the day’s discussion.

1. The European social dialogue is entering a new era, inasmuch as it is henceforth clear that it must be taken into account on a European scale, in line with the recognition granted to the institutional actors of the EU. That said, we are still far from having realised the hopes stirred up by the Maastricht Treaty, where the social partners hoped

to structure, legislate and produce standards in the spirit of the then social protocol. The context has got distinctly more complicated since the enlargement.

2. What will become of the social model as recommended by France, based on the mainstreaming and autonomy of the social partners? We sense the return of the public authority, whose job seems to be to incite the social partners to engage in negotiations. This is a role strongly endorsed by the European Commission and, on occasion, even by the European Parliament. But this return of the State in the negotiating game is laden with ambiguity. We are entitled to ask whether this interference by the State in the social dialogue, unforeseen not long ago, is not intended to turn the trade unions into official partners, called upon to play a score written in advance and orchestrated by a State that is stronger than ever. The trade unions would then serve to prepare the ground and to confirm, de facto, an apparent consensus constructed by the State from start to finish.
3. At the same time, the social partners have never before seen their function at the very heart of the public debate recognised as much. In an apparent contradiction, the trade unions are all the more recognised institutionally at a time when they are going through a recruitment crisis in all the EU Member States, and in France more than anywhere else.
4. Finally, European companies seem more than ever before to constitute the theatre of negotiations, especially for restructurings. It remains to be seen whether the agreements that emerge can spread elsewhere, serve as models, or even play a federating role in the corporate fabric. Or will they conversely entail an increasingly clearer segmentation of the labour market, where large companies provide innovative management of human resources, create a world of employment where companies are constrained to adapt without precautions nor preparation, not to mention that grey zone that is spreading.

In more general terms, it is also necessary to take account of the increasing autonomy of employees in the field. Works committees, for example, are completely independent from the trade unions. Similarly, European works councils provide an opportunity to ask who is the pertinent actor for negotiating, and how do they arrange their relationship with the corresponding European federation. All too often, trade unions do not manage to harness the desire for autonomy and participation on the part of employees. Several polls on this question have shown that, although there is no mistrust on the part of the employees towards the trade unions, in reality it is the trade union offer that way too often falls short of expectations.

Patrick Venturini was asked to bring the session to a close, and in doing so, mentioned the worker and mate system that has long linked Lasaire to the initiatives of the Commission and the social partners to delve ever deeper in the stakes of the social dialogue in Europe.



LABORATOIRE SOCIAL D' ACTIONS D' INNOVATIONS DE REFLEXIONS ET D' ECHANGES

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SOCIAL PLAYERS, RELAUNCHING EUROPE AND GLOBALIZATION ?

**REPORT OF THE SEMINAR ON
THE DEVELOPMENT OF SOCIAL RELATIONS IN THE EUROPEAN COMMUNITY
practices and issues in the new member states**

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Opening of the seminar

As Chairman of the Bulgarian Economic and Social Committee, **Lalko Dulevski** said he was delighted that Lasaire had chosen Bulgaria as the official partner at its biennial devoted to social dialogue. Bulgaria already had a rich tradition in this domain. The Bulgarian social partners considered their role as a substantial one but did not lose sight of the fact that social dialogue has to be continued in a civil dialogue. In this regard, it should be noted that Bulgaria was the first of the 20 new member states of the European Union in which these two forms of dialogue – civil and social – were recognised in the constitution and in legislation. This was the European model. The Bulgarian model was actually very close to the French model as regards the forms of dialogue and their institutionalisation. Lalko Dulevski, speaking on behalf of the Bulgarian government, said it was highly appreciated that the French side had chosen Bulgaria and the Bulgarian Economic and Social Committee to give an impetus to this major project.

Lazare Lazarov, Deputy Minister of labour and social policy of Bulgaria, likewise expressed words of welcome to the participants. He emphasised that in Bulgaria social dialogue was also based on the European model and on the values and rights inherent in it: the freedom of association, transparency, social legitimacy, democratic spirit, professionalism, competence, etc.

In fact, this development was hardly surprising given the fact that the state had put its full weight behind involving the trade unions and employers in working out and establishing public policies, proof of which is the Bulgarian Economic and Social Development Pact signed in 2006 and valid until 2009. Lazare Lazarov wondered how the tripartite social and cooperation partnership model established in Bulgaria could be brought into conformity with European practice. Account should also be taken of the ‘independent’ social dialogue, e.g. the collective labour agreements. In contrast with other countries of eastern Europe, Bulgarian legislation stood out because of the high percentage of employed persons covered by collective agreements. On this subject, Lazare Lazarov pointed out that the protection of workers’ rights and the reduction of unfair competition among workers depended on exercising control over the underground economy (the black economy), i.e. over undeclared work.

Etienne de Poncins, Ambassador of France, in his introductory speech stressed the importance which France attached to giving the social Europe a new boost. The Presidency which France held from 1 July 2008, would give it the opportunity to push forward and ensure the success of issues on the working time directive and the directives on alimony, social services of general interest and temporary work. More generally, the intention was for the three countries who would successively chair the European Council of Ministers – France, the Czech Republic and Sweden, would jointly prepare the review of the social agenda by 2010. The Ambassador particularly welcomed the initiatives taken by Lasaire to involve the stakeholders of the new Member States of the Union in its biennials. The social bodies were in fact the key players to give Europe a boost in a context of globalisation, without relinquishing their fundamental values of solidarity and redistribution. The method also recommended by Lasaire to bring together and compare social practices, which were sometimes conducted in isolation, also reflected the options presented to reform the Lisbon strategy: the Europe of competitiveness required a form of strengthened cooperation between countries on a voluntary basis.

Anne-Marie Grozelier, Secretary General of Lasaire, introduced the seminar with a brief overview of previous biennial meetings on Europe, Work and Employment. Since 1990, these seminars had persistently stressed the social issues inherent in the various stages of the European process. It was true that in terms of the speed with which economic exchange had developed, this social dimension was moving ahead quite slowly. While the European economic area saw its frontiers eliminated, the social rules underpinning social activity remained confined within national borders. This fact had not shaken the conviction that the development of Europe could not be confined to being simply a market but should also be endowed with social content, opening the way for thinking about a possible “European social model”. The sole existence of a large European market was not enough for the necessary social and political adaptations to evolve spontaneously. Now, more than ten years later, the Europe of the 12 had become the Europe of the 27 but the social dimension of the European project remained on the agenda.

Lasaire’s biennials had been underpinned by international comparisons of the systems of social relations, the role of social players, the types of collective labour agreements, systems of social protection and public services in each country. At the same time, a European social dialogue had gradually taken shape, even to the point where the corresponding social players manifested themselves at this level: collective bargaining agreements at EU level, at first interprofessional, then sectorial and finally within transnational undertakings.

All this work had made it possible to envisage and draw the outlines of what could have emerged as a social model for Europe: most west European countries had inherited traditions of social regulations and social standards that had been in place for over 50 years. There were, of course, differences but all the systems centred around common principles. Nor should one lose sight of the fact that the countries of eastern Europe also had strong traditions of social protection. Accordingly, the European social heritage was characterised, on the one hand, by rules governing negotiations on industrial relations on all levels of economic life and, on the other hand, by national structures providing collective social protection. All this was tantamount to a genuine heritage, a social heritage, an idea that Lasaire had adopted and defended against those who wanted to start from scratch.

The ninth biennial was taking place in the special context of the most important enlargement which the EU had known since the era of the six founding members. And yet, the question of the EU’s political organisation, starting with that of the economic governance of the Euro zone, had still not been settled: it was still the strategies of competition between states that continued to prevail instead of the expected cooperation and complementarity. This was why this biennial formed part of endeavours to strengthen the role and place of the social players in addressing strategic economic and social issues, pledges for a possible future for Europe.

Europe therefore had a specific character: it was not only a large market but at the same time a region of the world with social rules and regulations. Would the EU be able to retain its originality or would it see a dilution of its social dimension in this huge uniformisation which globalisation represented today, dominated by financial considerations? Could one imagine that on the basis of the specific nature of its social model and the diversity of its historical traditions Europe would be able to promote forms of social rules and regulations of this globalisation? Is not the best way to protect the European social model propagating this concern in other regions of the world rather than weakening its basis in that part of the world where it came into being?

These questions were at the heart of the discussions at this 9th biennial. They had started in Brussels in January and were now continuing in Sofia in the context of the development of social relations in the EU, and specifically the practices and issues they raised for the new Member States.

Session 1

The development of the European social dialogue, a special view of the new Member States

Andrew Chapman, Deputy Director of the Social Dialogue Unit of the European Commission, sketched the broad outlines of the characteristics of European social dialogue. He highlighted the essential role which the truly independent social partners should play in it. It was for the Commission to see that this independence was not fictitious. He described the different forms that the social dialogue could take, stressing the importance of bi-partisan dialogue in the concept of representativeness. It was the Commission's task to exert pressure on the various sectors of the economy to set up social dialogue committees. This was an initiative that the stakeholders would take of their own accord.

What would be the results to be expected from the European social dialogue? First of all, the parties would get to know each other better. Next, for each sector, a better understanding of their interests, thanks to this comparison of the views of the trade unions and employers organisations. And, of course, agreements (for instance, on part-time work, teleworking, stress at the workplace, etc.) and guidelines for good practice. Andrew Chapman gave the example of public services where incentives were being given to set up procedures guaranteeing the best quality/price ratio while respecting overall social standards. In conclusion, he again emphasised, for the attention of the new member states, the need to maintain the independence of the social partners and pointed out that one of the Commission's tasks was to see that all member states were represented in inter-professional dialogue.

Joël Decaillon, ESC, intended to supplement Andrew Chapman's exposé, adding some perspectives. The ESC, on whose behalf he was speaking, was a heavyweight: 82 national confederations, 36 countries, 12 industrial federations, more than 40 inter-regional trade union committees and a total of 60 million members, the stakeholders in the social dialogue. The European social dialogue had two pillars. The pillar of European social dialogue proper and the pillar of national social dialogue marked by several criteria, including representativeness and negotiation. This should be borne in mind as otherwise one would understand nothing of the crisis Europe was going through at the moment. The social dialogue itself was a direct expression of the existence of a social model present in Europe. It was therefore important to recall the necessary conditions for its proper functioning. Joël Decaillon summed them up briefly:

1. the existence in each member state of the rule of law underpinning social law. In the absence of the latter, it would become difficult to claim to be organising genuine social relations. Accordingly, the general ageing of Europe's populations called for a certain amount of anticipation including tax and redistribution measures, on the basis of which sustainable retirement schemes could be funded. Without proper anticipatory measures, this right to retirement would be devoid of any meaning. This type of organisation was, at least partially, the responsibility of the social partners. As for social dumping, its extent could be understood only by considering the scope of Europe's black economies (15% of the GDP in France!). By definition, this black

economy evaded the rule of law and democratic control. Hence the essential role of labour inspectors in organising the labour market.

2. The actuality of the pressure exerted, beyond the strict scope given to social dialogue, by the European trade unions upon the EU's leading economic bodies was another essential aspect to be taken into account. Thus the little importance to be assigned to the tripartite dialogue, highlighted by Andrew Chapman, was hardly consistent with the recent instance of trade union demonstrations in Ljubljana which called for a genuine economic governance of Europe. The European trade unions could not settle for a situation in which, although unemployment would diminish, the price to be paid would be a notable increase in the number of 'poor workers' in all the countries.
3. recognition within the social bargaining concept of its potentially conflictual dimension. Building up political democracy in Europe presupposes its extension through social rights whose establishment may, depending on the circumstances, involve tests of strength and conflicts. This is the meaning which Joël Decaillon assigned to the words 'participatory democracy'. With this in mind, the ECS had approved the draft for the constitutional treaty as, by integrating the charter of fundamental rights, it appeared to guarantee and underpin this extension of political democracy into a democracy of social rights.

The role of the ESC, continuing the Commission's efforts vis-à-vis new member states, was to enable the trade unions of these countries to be recognised as active and central elements of democracy and of the way social relations were organised in these countries. Europe's future social agenda should set as one of its priorities the reduction of the gap between income levels and promote the effects of true and proper redistribution. Another question raised within the ESC was that of the quality of employment. Many jobs were of a casual nature because they were low-skilled and for these employees access to training was difficult. There was also, in a wider context, the problem of access to the Globalisation Adjustment Fund. Moreover, the ESC should be able to exert its influence on the contents of directives concerning immigration policy. Finally, the question of the labour market for young people should be addressed from two angles: at the lower end, based on the fact that too many young people were still without qualifications when they started work and, at the top end, bearing in mind that 35% of young people were overqualified for the job they were doing. To ensure the successful outcome of all these policies, the social dialogue should continue to be strengthened and trade union rights should be respected throughout Europe. On this point, it was a cause for concern to see the direction in which the case law of the European Court of Justice (Laval and Rüffert judgements) had been going. The cohesion of Europe, which had been given a rough ride recently, was unthinkable without being accompanied and underpinned by social cohesion.

Dimitar Manolov, Podkrepa trade union confederation, noted by way of introduction that until the beginning of the 1990s, social dialogue had been inexistent in Bulgaria. At the time, there was still a one-party regime with a single trade union under communist party control. The *Podkrepa* trade union had been set up in 1989 on the model of *Solidarnoc*. It had only taken four years to prove itself and to become a serious social player to warrant its accession to the ESC. The social partners had gradually established themselves and they had developed a common language. In 1993, Bulgaria had a systematised and structured social dialogue and from 1999 social dialogue had been enshrined in the Labour Code. Through legislation, Bulgaria had laid down the outlines of the scope of social dialogue. The trade unions had had to invoke the law to ensure that the price of electric power, heating and telephone calls were

regarded as forming part of the standard of living and be a subject of social dialogue. Particular social progress had been the result of work carried out with the support of the ESC. For instance, *Podkrepa* had lodged an appeal, in cooperation with the ESC, with the European Committee of Social Rights, to have the right to strike recognised in particular sectors which had been reluctant to accept it. These are achievements which had been attained in a context that was not always free of tension.

Dimitar Manolov continued by highlighting certain problems which the social dialogue in Bulgaria had come up against. First, the problem of the representativeness of the trade union and employers' organisations persisted. This was less the case for the trade unions – since the governments had stopped recognising the representatives of 'yellow' trade unions – than for employers' organisations. For instance, the question as to whether the Bulgarian Chamber of Trade and Industry could be regarded as a genuine social partner had still not been settled. There were still problems on the part of the employers' organisations. Six of them had had their representativeness recognised. This situation made it very difficult to implement sectorial negotiations.

Moreover, a feature in Bulgaria that was unique in eastern Europe was that it had developed two types of dialogue. Alongside social dialogue, there was also a 'civil' dialogue which was conducted in the framework of the ESC. *Podkrepa* had worked hard to have this council set up, which had been achieved in the framework of a PHARE project, which had made it possible to establish links with the French Economic and Social Committee.

With regard to the bipartite form of negotiations, which today was the weak point of social dialogue, it had had its hour of glory at a time companies still belonged to the state. With privatisation, the employers' organisations had tendered to systematically defend the interests of owners, often foreign investors, who had shown little concern about defending the rights and interest of the workers. Hence the large number of situations in which there were difficult working conditions and very low wage levels. In conclusion, Dimitar Manolov expressed the wish that the Bulgarian employers' organisations would, through contact with their European partners, assume their social responsibility and would understand that it was in their interest to no longer defend employers who deliberately violated the Bulgarian Labour Code.

Dikran Tebeyan, of the Bulgarian Industry Association, was a veteran of building up social dialogue in Bulgaria. He presented an overview of its establishment with a tripartite approach. Its institutionalisation went back to 1993 but it was in 1997 that the professional branches and sectors were recognised in Bulgaria as partners in dialogue. Nor should social dialogue at regional level be neglected, be it in municipal councils for tripartite cooperation or regional councils for development. What were the prospects for developing a social dialogue in Bulgaria? There were six main thrusts:

1. continuation of the decentralisation process
2. development of flexisecurity
3. establishment of flexible contractual relations
4. lifelong vocational training
5. proactive labour market policies
6. adjustment of the social security systems

A major black spot: as elsewhere, it was easy to contain the development of the parallel economy or the unwillingness of some employers to honour the clauses of collective agreements which they had nevertheless signed.

Session 2

Social dialogue and negotiations in the EU at sectorial and transnational company level

In contrast with Andrew Chapman, **Udo Rehfeldt**, IRES, believed that the European Commission played an essential role in European social dialogue. By threatening to take legislative action, the Commission had in fact managed to persuade the European social partners to start the first collective bargaining process. At sectorial level, various agreements had been worked out, all be it in the form of rather feeble forms of 'recommendations', 'joint opinions', etc. Reversely, due and proper sectorial negotiations had been conducted in the Member States, often at the almost ritualised initiative of particular sectors such as the mechanical engineering sector, the chemical sector, the civil service, etc. It was exactly these sectors that had had the greatest difficulty at European level to get together as social partners likely to negotiate agreements.

With regard to transnational undertakings, two players could claim to have sufficient legitimacy to negotiate, the European works councils and the trade union organisations proper. The latter were calling for an official legal framework enabling them to confer unquestionable legal validity on the agreements they had negotiated which for the time being remained simple 'gentlemen's agreements' dependent on good faith and the good will of their signatories. There was also a time lag between the institutionalisation of European trade unions and the appearance many years later of social negotiations at European level. Unlike Andrew Chapman who thought that the turning point had been the Treaty of Amsterdam, Udo Rehfeldt saw it instead as the extension of the social protocol appended to the Maastricht Treaty, without ignoring the action pursued by the Commission at the time when Jacques Delors served as its president.

Two difficulties: initially the European employers had shown a hostile attitude to collective bargaining and they had even dragged their feet before organising themselves into a social partner (in fact, there were still sectors without an established partner on the employers' side). Moreover, at European level, the trade unions were not in the same position of strength as at national level. Hence the lack of success of European moves to make their weight felt in negotiations at transnational level. In any case, it should be noted that there was no European right to collective bargaining, nor a right to form trade unions and even less so a European right to strike. These issues had been excluded from the competence of the European Union. The ESC also favoured the establishment of a legal framework for bargaining at the level of transnational undertakings if the trade unions would be exclusively responsible for it. In the opinion of the ESC, the European works councils themselves had rights that were too weak (basically information and consultation) and had therefore not sufficient weight to successfully conduct bargaining. However this may be, it would be wrong to think, as one often heard, that collective bargaining was controlled by the trade unions throughout the European continent. The desire of the trade unions in this matter was to avert the formation of corporatism by companies. Bearing this in mind, he was concerned that the European works councils were not always able to express the general interest of workers (as contrasted with their specific interests). To remove these border conflicts, one could hope for the

establishment of coordination committees as already existed in the metalworkers' union. To ensure that this type of system worked smoothly, it was also necessary to ensure coordination at three levels: within the European works council itself, between trade unions and the council and finally also within the European trade union organisations. Udo Rehfeldt concluded that, all things considered, decentralised bargaining was proving much more delicate to conduct than centralised bargaining.

According to **Klaus Mehrens**, IG Metall, who had a long experience in this field, the hardcore of the social dialogue was conflict resolution. In Germany, the structure of social dialogue, at all levels, was always bipartite. The Germans had enshrined it in a specific law laying down the rules on working hours and working conditions. This law also made provision for rights of non-union workers and for works councils in general as well as conditions of pay, rules of hygiene and safety, conditions for access to training and guarantees regarding training and qualification, etc. This law therefore effectively translated the interests of workers even though it was still insufficient. The existence of European works councils and the developments proposed in the directive should be viewed from the same angle. The hope which the directive offered was not limited to improving information for employed persons but included the possibility offered to them of being stakeholders with the right of co-decision in the undertaking. In Germany, a law of 1976 made 'co-determination' obligatory in the supervisory board of companies with more than 2,000 employees. However, a number of European directives could well restrict the scope of co-determination. Hence the suspicion of the European directives concerning joint stock companies in various parts of the continent, and all the more so of transnational mergers. All of them created the risk of strongly reducing the scope of the German law on co-determination. Klaus Mehrens was very clear on this point. The trade unions, employers and the public authorities must recognise that the concept of co-determination as established in Germany was at the heart of what should constitute social Europe.

The German trade unionist emphasised the social condition peculiar to Germany which had long been based on collective bargaining agreements at sectorial or regional level, so much so that in the 1980s, 90% of employees in west Germany were covered by this. However, he pointed out that the agreements signed at company level and even the very absence of bargaining agreements in many companies had brought the level of coverage down to between 60% and 70%, indeed even less than 50% in eastern Germany. At the same time, there had been a significant increase in the percentage of low-paid workers, so much so that there were now calls in Germany for the introduction of a minimum guaranteed wage, a proposal which only ten years ago would have been fiercely countered by the trade unions.

Generally speaking, the very principle of collective bargaining was being called into question as economic unification in Europe under the aegis of a monetary policy aimed at protecting the Euro. To resist this pressure, the EMF had already a few years ago put forward a strategy for the trade union organisations within every Member State to coordinate collective bargaining policies. All of them, the EMF said, should base themselves on the national price index and on the productivity index to negotiate their respective wage increases. This strategy could not be put into place in Germany where over the last two years agreements signed were a mere attempt at catching up. To sum up, whatever the regional, national or European level, social dialogue could only come about if it was instigated by active social partners who were properly authorised to negotiate ambitious collective bargaining agreements which would serve as the basis for the social Europe that we all strove for.

Teodor Dechev, of the Association for Economic Initiative, set out the main characteristics of Bulgarian social dialogue at sectorial level. In Bulgaria, the various sectors and sub-sectors had been created without a specific legal framework giving them any prior definition. Of course, in accordance with official legislation, whether at national, sectorial, sub-sectorial, regional or company level, social dialogue could only be engaged between recognised representative social partners at national level. Also, social dialogue was both bipartite and tripartite. Regarding bipartite corporation, the labour code lays down the terms and procedures for extension.

The number of collective agreements varied enormously depending on the sector concerned. There were very few in the trade sector but many in the energy sector. These agreements were often an internal reference framework where the companies in a particular sector defined their own negotiating priorities. Of course, collective sectorial agreements laid down a minimum wage assuming that all the companies concerned would apply this under the same conditions. The Ministry of Labour could also take the initiative to extend a collective agreement to all companies in the sector as soon as a request had been put forward by all the representative organisations recognised by the sector concerned. This provision was realised for the first time in 2008 under a collective bargaining agreement for private security companies!

Lyuben Tomev, representing the CITUB [Confederation of Independent Trade Unions of Bulgaria], came back to the subject of setting up a social dialogue at sectorial level in Bulgaria. Several factors had contributed to its development. Firstly, the very fact that the State had abandoned its exclusive role as organiser of economic relations. Then, the changes introduced to the labour code in 2001 thanks to which the framework for collective bargaining had finally been fixed (frequency, levels of distinction between branches and sectors, etc.). Lastly, the effect of privatisation and restructuring had given rise to sectorial negotiations for social support. Entry into the EU had also forced the country to adopt international standards. Little by little, the social partners were able to acquire experience and the authority to enable them to negotiate. Result: in 2007, 23 new collective bargaining agreements had been concluded in a certain number of sectors and branches including those of mining and defence. Most of them were concluded for a period of two years. In total, there were currently 68 collective bargaining agreements for both branches and sectors.

However, reports by the European Commission pointed out the persistence of many deficiencies at sectorial level. These difficulties were caused by several elements including the fact that the employers' organisations were not sufficiently structured and were badly organised with few members. As a result, the trade union organisations had not clearly stated their willingness to organise themselves. There was a gap between the structure of the trade unions and that of the employers' organisations which did not correspond to official NIS standards. The procedure for extending collective agreements did not have the institutional support laid down in the labour code. At the same time, sectorial social dialogue was not being encouraged. Negotiations were dragging which was a sign that the employers were hardly motivated. The weakness and deficiencies of sectorial social dialogue could be summed up as follows:

- payment parameters and mechanisms were not dealt with in texts governing collective agreements
- there was considerable overlapping with provisions already in the labour code
- there was no guidance of the whole system made worse by the absence of coordination between the various levels

- the social partners had invested little in developing sectorial policies
- there was a lack of sectorial agreements (in terms of tools and operating mechanisms) on specific subjects such as stress and violence in the workplace.

There were, however, also examples of good resolutions and their application. In 2003, the social partners agreed to introduce various social protection limits and to lay down these limits every year so as to gradually push the informal sector towards the official economic system and thus increase revenue from social security. Another example: the increase of SMIC [growth-linked guaranteed minimum wage] for industrial branches and sectors of between 20% and 30% in 2008. The social partners had understood the necessity of expressing their wishes clearer in sectorial and company negotiations. However, company negotiations were offering more interesting perspectives (whatever the huge differences in wage levels within the same branch). The multinationals were a separate category as the level of salaries and wages was much higher.

Amelia Dimova and Angel Trizlov presented the case of the Solvay group. An information and consultation structure had been set up in this company according to the provisions of the Bulgarian labour code adjusted in 2006 to make it compliant with the European directive. The Bulgarian labour code set out three different bodies for information and consultation on wages – the trade union organisations, representatives of employees elected by the general meeting and trade union representatives also designated by the general meeting.

Two information and consultation structures were set up at Solvay Sodi. In the first, the representatives of employees designated by the general meeting (Article 7(2) of the labour code) and those trade union organisations taking part in discussions solely on subjects stipulated by the labour code. The second employees representative body was set up to deal with more subjects notably the situation of the company and the development of employment.

The main tasks of the special group for information and consultation were to present the financial situation of the company, to discuss the draft agreement covering relations between the employer and employee representatives at Solvay Sodi and its subsidiaries to respect the obligation to inform and consult with employees, to sign the agreement concluded for two years which came into force on 11 October 2007, to enable the CEO to present prospects for the company for 2008 and to get to know the code of conduct in force in the Solvay group. The agreement lays down the information to be provided: the company's financial results for the previous year, the average levels of employment compared to the previous year, an annual report on the investments made and changes to production methods, investment project, modernisation of and changes to technology, projects for the improvement of working conditions, annual report and forecasts of improvements to health and safety at the workplace and forecasts concerning vocational training, changes and developments in employees, dismissals, recruitment projects, restructuring, changes in the company's activities and the employment system.

Snejana Petrova, representative of the Danone Serdika branch, presented the case of the Danone group which since 1995 had become the market leader in fresh dairy products on the Bulgarian market. Decisions taken in the social domain by the works council at group level were transmitted to subsidiaries all over the world.

The social policy of the group in Bulgaria could be divided into three parts:

1. Work with the trade unions

Only one union (CITUB) was present in Danone Serdika. Major decisions were taken by the European works council where the Bulgarian branch was represented. It met twice a year. On the first day of work, the unions discussed various matters and problems. Questions were raised and solutions proposed to the general management on the second day. Discussions related to the company's restructuring programme, staff reductions, etc. As a result of these discussions, agreements were signed which applied to all subsidiaries. In Bulgaria, the unions negotiated a collective employment contract which included matters relating to social policy, i.e. the basic levels for employees. Since 2008, there had been 12 of these levels. They emanated from the company's social policy and included safety in the workplace and protection of the environment. Bonuses for executive staff were determined on the basis of achieving objectives. An audit relating to these levels would be held in Bulgaria this year for the first time. It would also cover the amount of information released to staff on measures taken by the company for safety at work and their effectiveness. Apart from the working conditions committee, laid down by Bulgarian legislation, other committees had also been set up in this field. Trade unions were involved in all discussions aimed at resolving problems and identifying prospects.

2. Informal management council

A management council was set up to compensate for the absence of a second union in the company. It included three representatives from the general management and its purpose was to give staff essential information which included the company's financial situation, expected developments, etc.

3. Staff surveys

Staff surveys had been carried out on a regular basis with questionnaires relating to industrial relations. The results formed the basis for discussions with staff from different departments and work units. They were able on this occasion to suggest improvements. It was in this way that the company was forced to involve all staff in the activities of the company.

The discussion

Stilian Balassopoulov, Chairman of the Bulgarian national council of production cooperatives, recalled that these types of cooperative were in fact SMEs whose history went back more than 115 years and which were members of the European cooperative alliance. These cooperatives which produced household goods and provided services also had a social vocation as most of them employed disabled staff. The law on cooperatives monitored the double status of owners and workers. However, cooperatives were not used to taking part in social dialogue. Because of this, they had not signed collective employment contracts. There were no trade unions for this sector, only a social activity committee elected by the general meeting. Not having the possibility of taking part in social dialogue was a lack in the Bulgarian social model and called for attempts to find a solution.

Jean Lapeyre, CESE, tried to distinguish between all the various bipartite, tripartite, even quadripartite relations, which formed part of social dialogue as such. He said that this attempt at clarification was the subject of a memo drawn up and signed by Business Europe, the

CEEP and the C.E.S., and that their signatories had submitted the memo to the Laeken Council in 2001. As for social dialogue, this was a strictly bipartite affair. He intended to conclude agreements with the social partners and made a distinction between social relations which concentrated on negotiations or those which were merely consultation. A second comment: the social level was the weak link, what was missing from social dialogue. Trade unions were organised at local, national, confederal and European level but the absence of the sectorial level in most of the countries especially in the new Member States prevented the emergence of an industrial policy with a regulatory effect on a whole range of structural reforms. When a dominant industry disappeared, there was a great risk that it would be replaced by an economic and social wasteland. The C.E.S. should try to strengthen the role of the European and national federations. How could we manage the 800 European works councils with such low levels of employment and rather limited means? In the current weak state where these federations were on the decrease, sectorial social dialogue was entirely dependent on the good will of the employers' federations without any commitment with regard to the employers' confederation itself.

Antonio Marques, of the Portuguese trade union, was concerned about the meaning given to fiscal reforms introduced by Bulgaria. It had reduced the level of tax on products and, since 2008, had introduced a fixed rate of 18% on all income. It was difficult not to see in these two approaches anything other than a step towards fiscal competition in Europe. It was in particular necessary to highlight the choice of the Bulgarians in favour of non-progressive income tax. Wasn't this type of initiative by nature aimed at weakening the European social model and, more generally, social protection in Europe?

Michael Whittall, a researcher at the Munich Institute, had four questions to ask: were there any figures giving a more exact idea of the extent and role of the works councils? The two last speakers were representatives of two multinationals, one French and the other Belgian, so didn't this mean that their view of the role of the works councils might be somewhat biased? To the extent that the European works councils could be an effective means of exporting the idea of the European social model, didn't they think that expanding transactional companies into the new Member States would perhaps be the best way of exporting the European social model? Lastly, how did the works council operate in Bulgaria?

Luben Tomev, Director of the Institute for Social Studies and Trade Unions at the CITUB, gave an overview of some back stepping in fiscal reform, which occurred at the beginning of the year, and which was translated by the introduction of a 10% proportional tax on all income. Some employees, who had up till then, not been subject to income tax because of their low income, had seen their disposable income reduced by 10%. Not a single trade union, in Bulgaria or elsewhere in Europe, would be capable of supporting such a decision. Furthermore, it was shocking to note that this reform had been put in place by a Socialist dominated coalition government. It was therefore understandable that the social partners would have two opposed reactions to this matter: the employers' organisations had approved of it while the unions were against it. That said, if the statistics for the first two months of the year were to be believed, tax returns on income tax of physical persons had increased by 15%. This did not mean, however, that this would apply to the whole year.

Téodor Dechev – Vice President of the Economic Initiative Union, as the employers representative, returned to the subject of proportional tax. The view of employers was a nuanced one. In the beginning, his organisation was against the suspension of the minimum tax exemption level but had supported the principle of proportional tax. The question of

finding the means to compensate the loss of income for poorly paid workers had been raised. All the employers' organisations had asked companies to take compensatory measures. This joint approach had been crowned with success even going beyond expectations. The problem was not a matter of greater or lesser compensation for poorly paid workers but was related to the general low level of salaries in Bulgaria which was much too low compared to levels and standards pertaining in Europe.

Dicran Tébéian – Vice President of the Bulgarian Chamber of Trade and Industry, came back to the question of tax reform. According to Eurostat statistics, the highest growth levels per capita had been recorded in those countries which had introduced proportional tax, e.g. the Baltic republics, Slovakia and Romania. Regarding Bulgaria, it was much too early to discuss proportional tax as it had only been introduced a few months ago. With regard to the comparison of the low levels of tax on companies in eastern Europe compared to the high levels in western countries, this did not take account of the lagging behind of those countries and the need for faster development and integration of the east European countries into the EU. Maintaining low levels of tax was a necessity in order to speed up economic development and, as a consequence, to improve the social dimension. Faster economic development was a means of adopting social standards at a quicker pace.

J-L. Moynot asked two questions: Firstly, he wanted to know how Udo Rehfeldt had made an analysis of the competition between the European works councils and the trade union organisations. Secondly, in Bulgaria, did the elected representatives of employees have right of recourse to the services of outside experts?

Answers

Klaus Mehrens spoke of the great tradition of the cooperative movement in Germany. After a long decline, there had been a certain rebirth of socially-inclined cooperative structures which were not predisposed to play the game of competition on the market. This was the reason for the need for bipartite social dialogue which was aimed at creating social protection mechanisms which were indispensable for the survival of such structures. Here lay the challenge of a genuine public policy.

Udo Rehfeldt noted a certain reticence on the part of employers when it came to the expression 'social dialogue' which did not stop them from accepting what Jean Lapeyre had proposed on this subject. Regarding collective bargaining, it was not only legal but also sociological. He felt a distinction should be made between collective bargaining at national and European level and those at sectorial, interprofessional or corporate level. In any case, it was the European Commission that designated the social partners.

Concerning the question of any competition between the European works councils and the trade unions, according to Udo Rehfeldt both were acceptable to take part in negotiations. This was also a case of sociological legitimacy as the trade unions had neither the means nor the personnel to follow all negotiations at European level by transactional companies. There had been cases where European works councils had led the negotiations and others where both parties had taken part, for example, in the case of restructuring by General Motors.

K. Mehrens said the reason why cooperation between the European works council of General Motors and the European Metal-working Federation had been so easy was that the Secretary General was also a member of the executive board of General Motors. The reason why the

European works councils understood the concerns of employees better could be found in the inability of the European unions to instigate collective bargaining on behalf of employees with European employers' associations which had categorically refused to take part.

Anelia Dimova and Angel Trizlov remarked that the special group set up at Solvay Sodi could not be regarded as a works council.

Stilian Balassopoulov emphasised the importance of this type of organisation, i.e. the cooperatives and on the need for them to have a system of employee representatives as was the case in Bulgaria.

Enzo Avanzi, CEEP Italy, briefly suggested a few subjects to be discussed at the next conference: social dialogue vis-à-vis public services or the involvement of employees of public services in social dialogue. He highlighted the close link between social dialogue and the quality of democracy.

Eva Berde, an economic researcher at a Hungarian university, wanted to emphasise the importance of making a distinction between the security associated with certain jobs and the job security inherent in provisions on access to employment. In other words, job security as a consequence of an effective employment policy.

Udo Rehfeldt came back to the question of the public services which in fact covered two different categories. On the one hand, services which were assured by public bodies and which had a strong historical link and on the other, those that had a public function which was national in scope and not at all European. There was still the matter on how to organise national and regional public functions at European level.

Dimitar Manolov, Vice President of Podkrepa, mentioned the deficit on current accounts which had increased considerably in Bulgaria in recent years without being able to blame this on the effects of the financial crisis. This negative commercial balance was actually linked to the fact that Bulgarian companies were not able to make quality products which could compete on the European market. The new Bulgarian capitalism was criminal in nature and awash with dishonest practices which were only gradually disappearing. With regard to the introduction of proportional tax, it corresponded, and was why it was introduced, to a policy of fiscal dumping the first result of which would be to increase the wealth of the nouveaux riches. The latter, rather than investing in production, preferred to spend their money on forms of ostentatious consumption such as luxury houses, cars and yachts.

Lalko Dulevski, Chairman of the Economic and Social Committee, was pleased to have taken part in such an interesting discussion. Questions raised by the introduction of proportional taxation, the world economic crisis, etc. everyone in the room, the social partners in particular, had a chance to express their opinion. Some of them, employers and trade unionists, had expressed their differences on the probable effects of tax reform. This was a subject that had resulted in a very lively discussion within the Economic and Social Committee of Bulgaria which was looking for a common position on the tax issue based on in-depth analysis. However, this discussion at least had enabled them to get on board and had allowed them to proceed to a new evaluation of positions and arguments put forward. Within one year, when sufficient information and results had been gathered, the ESC would raise the subject again and proceed to undertake a new analysis. It was in any case the right moment for the ESC to take this type of initiative so that it could better define the nature of the

problems and specific issues that Bulgaria was confronted. There was also the problem of retirement pensions. At one time, Bulgaria had more retired people than people paying social security contributions. However, once the details of the problem were known, the social partners had reached a consensus on how to reform the pension system. Not everything had been settled in this matter but the social partners knew that they could contribute to solutions by actively participating in social dialogue. Currently, the files concerning sectorial, information and consultation aspects were still being discussed. It was clear that legislative adjustments would be necessary at both national and European level. The initiatives of the French Presidency of the EU were therefore eagerly awaited.

Conclusions

Pierre Héritier had noted that many biennial participants had shown concern about maintaining links that such meetings had produced and which made them sustainable. The enlargement of the EU to new member states showed that the process of catching up was operating with more efficiency and quicker than the experts had thought whatever the plans for growth, productivity, standard of living, etc. Moreover, such catching up could not occur without enormous changes whose collateral effects on the social plan would only be accepted if they were accompanied by training and the setting up of provisions to facilitate various forms of mobility. All this would be possible if in addition to the required funding, a genuine culture of negotiation could be set in motion. In this respect, certain contributions to the present conference gave the impression that bipartism might be on the way out. Some fields which in the past had been governed by contractual bargaining were now the subject of intervention by the public authorities.

Another question: What about Europe within globalisation? It could work for the laying down of regulations applicable to exchanges especially social bargaining. However, the aim of the game was as always, according to the Lasaire doctrine, the establishment of cooperative rules. Within this framework, the question of social dumping and fiscal competition could be raised again. There had to be conciliation between those nations that were catching up and a long-term vision. While they agreed with the suggestion put forward by Klaus Mehrens, the Lasaire team also thought that incomes and social achievements should develop in line with increases in productivity. If every country would agree to an increase in wages and social contributions in line with increases in productivity, this would contribute to the cooperative aspect stimulating job creation and consolidating social systems.

Globalisation had also highlighted our great economic, technological and cultural dependence on the USA. A striking example of this dependence was the adoption by the EU of standards compatible with American ones, the effects of which on the social aspects of companies would be enormous, starting with the incompatibility of these standards with regard to information and social consultation procedures characteristic of European companies. Respecting these procedures would mean contradicting the demands of shareholders. Another sign of this dependence on the American economy was the dollar being undervalued compared to the Euro which would explain some industrial relocation. However, even more serious were the consequences of the current financial crisis which had started in the USA. While it might well end in an American recession, it would inevitably lead to a decrease in overall demand. In addition, the American financial crisis might also result in completely opaque financial products contaminated by the sub-prime crisis.

In order to confront these uncertainties, it should be noted the policy of the European Central Bank should be used to benefit the economy and sustainable development and not the other way round. With this in mind, genuine governance of the Euro zone should be introduced, i.e. setting up joint policies in the field of research, innovation, industrial development or establishing a kind of ECSC for energy. For instance, if this spirit of cooperation had inspired the directors of the EDF, they would have taken the opportunity to question the status of their enterprise by proposing the creation of an energy unit on a European scale.

Generally speaking, the social partners and more particularly the trade unions needed to establish their legitimacy in those areas where their role is obvious. Moreover, where negotiations were taking place, the importance of the level of the branch should be underlined especially as employers would be tempted to fail to recognise this especially when it came to transnational negotiations. In addition, the territory itself would become particularly pertinent from where it would be possible to reflect on industrial strategy, production and the distribution of innovation in the SMEs including training and professional mobility. While it was true that in a world where companies had the tendency to change their fields of activities constantly, where professional identity was disappearing, territory had become increasingly a source of identification.

In conclusion, Pierre Héritier spoke of the strike which had broken out in the DACIA factories in Romania. He saw this as a sign that in Europe there were social forces which should not be discouraged. Europe could only find its role if the social partners, aware of today's realities and of what was at stake and acting together with politicians, could come up with appropriate responses to the inevitable consequences of runaway globalisation. The feeling of powerlessness was the source of all danger. The workers at the Dacia plant did not back down but showed that collective action could still be used to change situations.