

**AGREEMENT REF. NO. VS/2010/0726**  
**THE ROLE OF INDUSTRIAL RELATIONS IN EUROPE 2020:**  
**FROM LOCAL CONCERNS TO TRANSNATIONAL ACTION**

**Final activity report 2012**  
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**English translation: William Bromwich**

**PART I: THE OBJECTIVES OF THE PROJECT**

**1. Results (in particular: benefits in terms of group objectives; added value).**

The main objective of the project was to promote a consensus among all the actors (policy-makers, the social partners, enterprises, civil society) at EU level with regard to the need for convergence on the targets laid down in the Communication on Europe 2020. The connection with the transnational dimension of industrial relations derived from the fact that the active involvement and participation of the social partners appears to be an essential precondition for the success of the new EU strategy for smart, sustainable and inclusive growth, and this is for two reasons. The first concerns the central role that employers' associations and trade unions can play, by means of collective bargaining, as actors in the process of "smart regulation" on which the Commission relies in order to bring the regulatory framework up to date, in line with recent developments in the world of work. The second concerns the impetus that the consensus between the social partners can provide, on a social

and political level, to overcome the factors that are slowing down integration, the disillusionment with the single market and the risk of a return to economic nationalism. For this purpose the aim was to promote the concept and practice of transnational collective agreements, while stimulating the dissemination and exchange of information at EU level on experiences and practices, and proposing adequate incentives of a cultural and technical nature for the development of this form of social dialogue.

Another aim of the project was to boost the exchange of information and best practices on transnational bargaining among the social partners at all levels: company, regional, European and global. To this end, the project was supported by participants from different countries, namely: Bulgaria, Estonia, France, Germany, Ireland, Italy, Spain and the United Kingdom. The representatives of these countries took an active part in the implementation of the project by providing organisational support in hosting the events, contacting the speakers and conference participants, and other activities to ensure the smooth functioning of the events. They also made important academic contributions and committed themselves to disseminating the project results after its completion to ensure the long-lasting impact of the project.

In terms of participation, the actions were open to all the respective members of employers' associations and trade unions, academics and practitioners, thus establishing a channel of communication between academic researchers and policy-makers in order to promote the most virtuous practices and procedures through legislation or collective bargaining. For this purpose the project was designed as a series of activities aimed at maximizing the exchange of experiences and best practices in the transnational dimension of social dialogue and industrial relations. There was a particular focus on the new Member States. In order to achieve these objectives, the project structure included a series

of seminars in different countries (in chronological order, in Ireland, Italy, Spain, Estonia and Bulgaria). Each seminar consisted of two parts. The first part was an academic session aimed at stimulating discussion on the selected topics in the field of the transnational and national social dialogue and industrial relations, while the second part was more practically oriented, and consisted of internal meetings in order to define the common ground of understanding among the members of the group. During these meetings the assessment of the work performed was carried out at regular intervals and possible future strategies were examined.

The events attracted a total attendance of 400 participants from 25 countries.

Further objectives laid down in the project were the following:

- to better identify the social, political, economic and cultural obstacles to the full participation of the social partners in achieving the European objectives;
- to work by means of the case study method to acquire greater knowledge and understanding of transnational social dialogue on the part of the social partners at national level;
- to strengthen abilities and develop strategies for encouraging the European social partners in the new Member States;
- to extend the existing network of experts and practitioners in the field of industrial relations.

In this connection, starting from the first stage of the project, the research group became aware that the timeframe was too short to enable all the group objectives initially intended to be achieved. The in-depth analysis and development of each case study requires a preparatory phase that is particularly complex (construction of a network of contacts, and the organisation of meetings taking account of the commitments of all the

participants), and as a result it was decided to concentrate on a limited number of cases, opting for the banking sector, and one of the leading multinationals in the sector, UniCredit, that is one of the few multinationals in the sector with experience of transnational agreements. At the time of writing it is the only Italian multinational in the banking sector to have set up a European Works Council.

In order to ensure an approach covering a wide range of systems, a multidisciplinary method was adopted, and it was decided to involve partners with a variety of industrial relations traditions, ranging from those characterised by a high level of institutionalisation (Germany), to those adopting a voluntary approach (United Kingdom), and those where industrial relations are regulated mainly by collective bargaining with an increasing degree of decentralisation (Italy), and finally those such as Estonia and Bulgaria in which industrial relations are still at a developmental stage. Developments in these two countries are influenced on the one hand by the Communist experience, and on the other hand by the need, as members of the European Union, to adapt in a short space of time both to European values and to the challenges of the global market.

Starting from these premises, it should be pointed out that the benefit for the actors involved was particularly significant in the case of the banking sector

First of all, UniCredit had a strong focus on the implementation of a corporate social responsibility agenda in a European dimension by means of a European Works Council, and identified the project as a channel of communication for explaining externally its policy for the management of industrial relations, that can be put forward with reference to this sector as an example of best practice.

Second, a particularly favourable development was that the interviews carried out as part of the case study of UniCredit took place at a time when the new members of the European Works Council (EWC) were

appointed. As a result, the interviews and the subsequent presentation of the results of the study provided the new EWC members and the management with an opportunity for dialogue and an exchange of views and information, thus facilitating the functioning of the EWC and evidently promoting a better understanding among its members of negotiating procedures on the basis of the joint statements by the members.

A further benefit, that is appreciable above all in terms of the added value of the project, was the active involvement of the social partners in the various countries where the conferences and workshops were held (Italy, Spain, Estonia, Bulgaria). This gave rise to important opportunities for an exchange of views on recent developments in industrial relations in relation to the achievement of the objectives laid down by the Europe 2020 Strategy.

Moreover, a factor resulting in significant added value likely to produce a multiplier effect consisted of combining the project with an academic programme. In particular, a number of doctoral research students from the Doctoral Research School in Industrial Relations at the Marco Biagi Foundation at the University of Modena and Reggio Emilia in Italy were actively involved in a range of activities. The first group, consisting of five doctoral research students coordinated by Prof. Geoffrey Wood (Professor of Human Resources Management at the University of Sheffield School of Management, UK) drafted a summary of the proceedings of the Conference held in Modena in March 2011, whereas the second group, consisting of one doctoral research student and Prof. Tony Royle (Senior Lecturer, Department of Management, J.E. Cairnes Graduate School of Business, National University of Ireland, Galway, Ireland, who also acted as coordinator), carried out a case study consisting of a series of interviews aimed at gaining an in-depth understanding of international bargaining procedures in the framework of the UniCredit European Works Council. In addition to leading to the publication of a report (the work coordinated by Prof. Wood is to be published in Italian in the online series of Working

Papers entitled *Quaderni della Fondazione Marco Biagi* - <http://www.fmb.unimore.it/online/Home/Ricercae pubblicazioni/QuaderniFondazioneMarcoBiagi.html>,

whereas an English version is to be submitted for peer review in an international journal), these studies are to be further developed as doctoral research dissertations, laying the foundation for further in-depth research.

In such a short period of time the changes brought about by the actions taken are difficult to evaluate in a definitive way. The negotiating process associated with the project can be assessed only over a longer timeframe, with the ongoing development of industrial relations. However, it is possible even at this stage to evaluate the contribution of the project to a possible change of the cultural and methodological approach to transnational collective bargaining. The project highlighted the need to combine the legal perspective with a sociological approach, taking account of the insufficient outcomes to date of analyses carried out in just one disciplinary domain. At the same time, it should be noted that one of the main difficulties encountered was involving scholars from various disciplines in all the countries taking part.

## **2. Summary of the main activities (variations on the original project, actions, participants, outcomes)**

On the basis of the original programme, the various actions were intended to focus on the following research topics:

- classification of issues and practices for transnational bargaining by the social partners in the framework of Europe 2020.
- analysis of instruments for the implementation, monitoring and resolution of disputes applied to transnational collective bargaining.

- incentives for the social partners to conclude transnational agreements.

These actions were intended to be divided into work phases, consisting of theoretical and/or empirical work, and the public presentation of the outcomes

The first phase (an internal presentation workshop in Galway, and the international conference in Modena) was implemented in compliance with the original objectives, facilitating the presentation of the project to the various participants and a discussion of the overall aims and structure.

At the stage of the intermediate assessment of the project, however, it became evident that a number of factors gave rise to difficulty in the implementation of the later phases of the original plan. These factors were of two kinds. First, the interdisciplinary nature of the group gave rise to communication issues among the members, in particular with regard to communication between the legal scholars, economists and sociologists. As rightly pointed out by the labour law scholar Pietro Ichino,<sup>1</sup> “this is particularly the case in relation to the labour market, in which the respective ‘orthodox’ approaches appear to be impermeable to each other more than is the case in other domains” (our translation).

In the second place, empirical research by means of case studies, taking into account the organisational and practical difficulties, would have required a longer timeframe than the one allotted to the project. It was therefore agreed that in order to implement the project in a more rational manner in compliance with the timeframe agreed with the European Commission, the division into phases would have to be modified, separating the theoretical research from the empirical study. As a result the decision was taken to dedicate a specific phase to the in-depth theoretical work on the topics introduced by the first conference, in order to favour an

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<sup>1</sup> Ichino, *Lezioni di diritto del lavoro. Un approccio di labour law and economics*, Giuffrè, Milan, 2004.

interdisciplinary approach, and to concentrate the empirical work in a later phase, limiting it to a selection of cases compatible with the time allocated.

The third phase of the project was therefore divided into the following activities, replacing the research topics originally planned:

- in-depth theoretical research, carried out at the conference held in Castellón (Spain), during which the following topics were examined: collective bargaining (contents, general basis and gender equality); industrial relations and development of negotiation practices at transnational level;
- in-depth empirical research, by means of the implementation of a case study dealing with transnational bargaining developed in the framework of the UniCredit EWC. This in-depth study was carried out over the summer of 2011, and the results were presented at the conference organised in Tartu (Estonia).

The decision to modify the original work plan resulted in a rethinking of the original research objectives. This rethinking was also a reflection of the change in the number of countries taking part in the project. Due to unexpected institutional commitments, the colleagues from Denmark, Hungary and Lithuania were unable to take part in the project as originally intended. This gave rise to the need to rethink the allocation of tasks within the project and as a result it was decided to invite Dr. Volker Telljohann (researcher from the Italian Institute of Economic and Social Research as an external consultant), some doctoral students from the doctoral school of Marco Biagi Foundation (Michela Cavallini) and Dr. Jenny Rivas (post-doctoral researcher at the Marco Biagi Foundation) to contribute to the project.

The project was therefore formulated as a preparatory phase for further in-depth research during which, in the light of the data collected in

the first year of activity, the topics originally identified could be more clearly defined and subsequently analysed in detail.

In spite of the modifications that were made while the project was in progress, it may be said that the benefits for the main stakeholders in the project, that is the social partners in the various countries taking part in the initiative, were of considerable significance. In each of the actions implemented as part of the project, the trade unions and the employers' associations participated to the full, playing an active part in the sessions of the conferences organised in the four different European countries, giving an outline of their experience and comparing it with the developments prospected by the research group with reference to the policy guidelines laid down by the European institutions in the context of Europe 2020. At the same time they engaged in a critical reflection on the gap between the general objectives laid down in abstract terms in Europe 2020, and the day-to-day issues facing the social partners. In this sense it may be said that the outcomes originally expected have been fully achieved, in particular, the promotion of consensus for the Europe 2020 agenda, the identification of the obstacles to the alignment of the national social partners to the European guidelines, and the exchange of opinions and information among the actors on a transnational scale.

### **3. Transnational dimension**

The premises of the project were fully accomplished with regard to the international dimension. In addition to the significant number of countries taking part in the project (Bulgaria, Estonia, France, Germany, Ireland, Italy, Spain, Sweden and the United Kingdom) and its implementation (the specific actions concerned five countries: Bulgaria, Estonia, Ireland, Italy, Spain), as well as the allocation of research coordination tasks to academic

representatives of the various countries (in particular, with regard to the thematic areas: Bulgaria, Ireland, Italy, the United Kingdom), a particular source of satisfaction was the active involvement of new Member States such as Bulgaria and Estonia, where the issues of social dialogue and the transnational dimension of industrial relations give rise to particularly significant challenges.

Moreover, for the purposes of evaluating the transnational impact of the project, what is significant is not just the exchange of ideas and information within the group, but also the impact in terms of dissemination of the research outcomes produced in the light of the participants and the beneficiaries of the public events for the presentation of the project and the related publications. In addition, it is important to underline the active participation of important shareholders such as the representatives of employers' associations and trade unions in many of the countries involved, including Bulgaria, Estonia, Ireland, Italy and Spain.

It is interesting to note that the transnational dimension of the project was foregrounded also in connection with certain critical aspects arising from the analysis. For example, the case study highlighted the persistence of cultural and language barriers that have an impact on the functioning of transnational bodies such as European Works Councils, at times limiting their effectiveness, and more in general giving rise to the risk of a negative impact on the alignment of the national social partners with the European objectives. However, with regard to the project experience with the social partners in the new Member States, particularly Bulgaria and Estonia, it became clear that there is still a considerable gap between EU institutional policies, largely reflecting the industrial relations systems of the more mature European economies, based on the advanced objectives of the Europe 2020 Strategy, and the situation in the countries of Central and Eastern Europe, that appear to focus on more urgent and contingent matters

such as setting up an autonomous industrial relations system with democratic foundations after decades of totalitarian rule.

Further information on this issue is presented in the enclosed working materials (programmes of the international conferences, table of contents of the publications, internal working papers, PowerPoint presentations).

#### **4. Involvement of partners and stakeholders**

The partner higher education institutions and research bodies actively cooperated on the implementation of the project in compliance with the original plan. In particular, the Universities and research bodies involved, such as the Marco Biagi Foundation (Italy), CITUB (Bulgaria), the National University of Ireland (Ireland), the University of Tartu (Estonia), and the Universidad Jaime I (Spain) enabled the events to be organised from a logistical point of view, ensuring the participation of the University and institutional authorities, and the social partners, and this should have a significant impact on the subsequent dissemination of the results of the project, both in terms of bargaining between the social partners, and in terms of teaching programmes. This should further contribute to the long-lasting impact of the project.

One particularly significant aspect was the ability, on the part of the institution organising each of the events, to establish contact with the representatives of the social partners in their respective countries, ensuring their active participation in the conferences, thus enhancing the transnational character of the project and the potential for disseminating the project results.

A fundamental factor contributing to the successful outcome of the project was the scientific contribution of researchers and speakers from each of the institutions.

It is important to distinguish between the role of the stakeholders who were project partners and those making an external contribution. Among the project partners, mention should be made of UniCredit, the Institute for Social and Trade Union Research (Bulgaria), and the Institute of Education and Training Research (Italy), all of them either employers or trade union bodies or linked to them in some way. These partners played a crucial role in representing the views of employers' associations and the experience of trade unions.

With regard to the contributions of external stakeholders, each of the four international conferences provided space for the intervention of representatives of the social partners in the host country. They all actively contributed to the debates and committed themselves to continuing the dialogue launched during the project also after its termination. This made a significant contribution in terms of strengthening the network.

## **5. Equality considerations**

Gender equality is one of the key objectives of the 2020 Europe Agenda. Decent work entails the need to take account of gender, since the presence of women in precarious employment is disproportionate in many sectors. In particular, continuing deficiencies with regard to the work-life balance in many areas prevent women from making the transition to stable employment.<sup>2</sup> As a result, urgent measures are needed to ensure equal involvement and equal pay for women in the world of work. The gender distribution of the speakers at the conferences is shown in Table 1 below.

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<sup>2</sup> International Policy Analysis, S. Fischer, et al, "*Europe 2020*" – *Proposals for the Post-Lisbon Strategy. Progressive policy proposals for Europe's economic, social and environmental renewal*, 2010.

<b>Table 1 - Number of Speakers – All Conferences and Workshops</b>						
<b>Conference/Workshop</b>		<b>Venue</b>	<b>Date</b>	<b>Men</b>	<b>Women</b>	<b>Totale</b>
1	Ninth International Conference in Commemoration of Prof Marco Biagi: Europe 2020: Comparative Perspectives and Transnational Action. Exit Strategies for the Labour Market, Industrial Relations and Human Resources Management	Marco Biagi Foundation, Modena, Italy	17-03-11 18-03-11 19-03-11	54	42	96
2	Transnational Industrial Relations: Theoretical Framework and Empirical Evidence	Universidad Jaume I, Castellón de la Plana, Spain	07-07-11	2	4	6
			08-07-11	7	1	8
3	From European Social Dialogue to Transnational Industrial Relations? A Case Study	Conference Room of Estonian Supreme Court. Lossi 19, Tartu	24-10-11	4	6	10
			25-10-11	2	4	6
4	The Role of Industrial Relations in Europe 2020 - from Local Concerns to Transnational Action	CITUB (KNSB), 1 Macedonia Sq., floor 11, Sofia (Bulgaria)	24-11-11	11	6	17
			25-11-11	2	4	6
<b>Total</b>				<b>82</b>	<b>67</b>	<b>149</b>

In this connection particular attention was paid in the project to the active involvement of women both in quantitative and qualitative terms, with the involvement of women in high professional positions from both the academic world and business. In light of the outcomes, this objective may be said to have been successfully accomplished.

It is also important to point out that the women in the group were responsible for key roles in the implementation of the project. In particular, all the initiatives that were open to the public were coordinated by women (Modena Conference: Olga Rymkevich and Carlotta Serra; Castellón Conference: Carmen Agùt Garcia; Tartu Conference: Merle Muda; Sofia Conference: Ekaterina Ribarova), and the academic coordination of one important phase of the project was assigned to a woman (Ekaterina Ribarova, phase 4).

## **6. Further development of the project after the termination of funding**

As pointed out in section 2 above, during the implementation of the project it became clear that the objectives originally laid down needed to be reconsidered in the light of the operational difficulties that were encountered. For this reason, the results achieved, while not totally in line with the original expectations, may be considered to be a preliminary stage for the definition of a more analytical multi-year research programme, with a focus on the original objectives, while seeking to define them more clearly in the light of the data collected thanks to the funding provided by the European Commission.

However, the research material collected is particularly significant. In addition to the internal documents (working papers, PowerPoint presentations, and other documentation annexed to the present report), mention should be made of the summary of the presentations at the Modena conference in March 2011, coordinated by Prof. Geoffrey Wood, to be published in Italian as an online working paper in the series *Quaderni della*

In addition an English version is to be submitted for peer review by an international journal. At the same time, the present report is to be published in Italian in the same series of online working papers, *Quaderni della Fondazione Marco Biagi*. In addition the Abstracts have been disseminated in all the languages of the countries taking part in the project, as outlined in section 9 below.

Moreover, the experience gained in this first year has made it possible to extend and consolidate the international network of researchers and stakeholders who are interested in an in-depth study of the matters that were the subject of the research. As a result the first step for the purposes of continuing the research will be to convene a forum of all the parties potentially interested in continuing the research in order to set up a new working party to discuss the specific objectives of a further series of actions. In this connection consideration will be given also to a possible involvement of the doctoral research students at the International Doctoral Research School in Labour Relations at the Marco Biagi Foundation who have already taken part in certain phases of the project and who will be continuing with the research on an individual basis for the purposes of their doctoral dissertation.

## **7. Methods and evaluation of the action taken, conclusions drawn from the evaluation**

In line with the objectives laid down, an internal evaluation of the project on the part of all the group members was carried out during each meeting of the group. The members of the group expressed a high degree of satisfaction both in quantitative terms (the number of group members taking part and the

activities carried out) and in qualitative terms (the exchange of views, information and best practices between the social partners from a wide range of backgrounds). The participants expressed the hope that this project will serve to lay the foundations for a new project enabling the experience acquired to be put into practice.

Reference should be made to the quantitative parameters for the evaluation of each phase of the project, identified at the outset of the project as follows:

- Participation as speakers in the conferences and workshops by eminent scholars belonging to at least five Member States of the European Union and by practitioners belonging to the employers' associations and trade unions at EU level, as well as at national level, belonging to at least five Member States, on a five-point Likert scale;
- production of at least five working papers, including a benchmarking report on the case studies examined, on a five-point Likert scale.

Each phase was considered to be positively implemented in the case of an overall score of at least 7/10. The results achieved were in line with this score. The slightly negative results recorded for two of the conferences (four countries represented respectively in Estonia and Bulgaria) were more than offset by the geographical composition of the participants at the conference in Modena (10 European countries represented, in addition to 15 countries from other continents) and at the conference in Castellón (six European countries). In terms of the production of papers and reports, a report was produced on the case study of the UniCredit EWC (incorporated into the third chapter of the final report annexed to the present document). In addition a number of internal working papers and PowerPoint presentations were produced in the various stages of the project.

## **8. Best practices: outcomes achieved.**

The exchange of views and information relating to a wide range of experience and practices gave rise to a mutual learning experience among the research group participants and the stakeholders in national and European industrial relations. This aspect was particularly significant for the new Member States (Bulgaria and Estonia), where the concepts and practice of social dialogue are still not fully developed. Moreover, the social partners in these countries still encounter practical difficulties in relation to participation in international conferences, due to the lack of funding, shortage of staff with sufficient knowledge and international experience, and limited language skills. From this point of view the financial contribution of the European Commission was fundamental.

Moreover, the most evident best practice that emerged from the project is of a methodological kind, relating to the approach to organising international conferences. The structure of these conferences, characterised by an alternation of presentations by members of the group on topics relating to the Europe 2020 agenda, and discussions of these topics in the light of the experience of the social partners in each national setting, made it possible to disseminate the principles and objectives of the Europe 2020 agenda at times in contexts in which they were not widely known. In addition, it provided an opportunity to examine in a critical light the match between European policies and national priorities as outlined by the stakeholders in the countries involved.

Finally, it may be said that the project provided an important opportunity to raise awareness and disseminate knowledge about the national and European trade unions in order to work towards joint objectives.

To sum up, it may be said that the project was particularly significant from the point of view of:

- improving knowledge about the various national contexts and promoting cooperation among actors from different political, social and cultural backgrounds;
- providing an opportunity to exchange views in the framework of national and transnational industrial relations, comparing extremely diverse practices among trade unions and employers' associations. In particular, it made it possible to disseminate information about EU policies within the framework of Europe 2020, and to promote among the Member States an awareness of the potential arising from the involvement of the social partners in the European project, above all in relation to national actors (particularly the countries of Central and Eastern Europe) engaged in the construction of a new system of modern democratic industrial relations, and for this reason in need of indications and terms of comparison in relation to the choices to be made and the possible direction to take;
- cultivating awareness of the importance of European social and cultural values relating to the trade unions and the employers' associations, while fully respecting national sovereignty that in critical times becomes particularly significant. It is essential that in relation to the challenges arising from the economic recession, the European countries should not turn in on themselves, but look beyond their borders and enrich themselves with the consolidated experience and best practices at European and international level. Above all it is important from this point of view that the social partners should seek to achieve cohesion and consensus at national level, with a view to following up on international practices in the national setting.

## **9. Method of dissemination and means of involving the stakeholders**

The project provided the opportunity for a high level of involvement on the part of the stakeholders, who were able to take an active part in the initiatives for disseminating the partial and final results of the research by following the presentations and providing their own input into the discussion. The international conferences provided ample space for the presentation of local experience on the part of the trade unions, the employers, and the employers' associations, enabling them to engage in dialogue with each other, as well as to consider European issues, particularly the objectives laid down in Europe 2020, that during their day-to-day operations may not be the focus of their attention. In this way the social partners were able to acquire new knowledge that they will be able to put into practice, taking account of the suggestions and input in deciding on their local strategies and action plans.

The participants expressed their appreciation for the project as a precious source of information, underlining its future potential. However, considering the complexity of the field of inquiry, this exchange of experiences inevitably gave rise to questions that require further in-depth research, that it is intended to carry out in the near future.

The project is to be disseminated in the following ways:

- publication in English of a selection of papers given at the Modena Conference in the *Bulletin of Comparative Labour Relations*, volume 80, 2012 (this volume, edited by Roger Blanpain, William Bromwich, Olga Rymkevich, and Iacopo Senatori, will be presented at the next conference in March 2012, see list of contents enclosed);

- publication in English of a selection of papers given at the Modena Conference in the *International Journal of Comparative Labour Law and Industrial Relations*, (see list of contents below);
- publication in Italian of a selection of a summary of the papers given at the Modena Conference in March 2011, as well as the final report, in the online working paper series, *Quaderni della Fondazione Marco Biagi*, with distribution of the newsletter to 7,000 addresses on the mailing list;
- publication of the working materials from each international conference (PowerPoint presentations and other materials) on the website of the Marco Biagi Foundation <[www.fmb.unimore.it](http://www.fmb.unimore.it)> where it is possible to consult and download the documents in pdf;
- dissemination in Bulgaria by means of the publication of the relative information on the ISTUR website (organised by Ekaterina Ribarova);
- posting of the material on the Sheffield University website and dissemination by means of conferences organised by Prof. Geoffrey Wood;
- dissemination via the local branch of the Chartered Institute for Personnel Development, the professional association for HR professionals in the UK (organised by Prof. Geoffrey Wood);
- publication of a short report for the *Business Leadership Review*, the practitioner-orientated publication produced by the Association of MBAs <[www.mbaworld.com](http://www.mbaworld.com)> (organised by Prof. Geoffrey Wood);
- publication of a short summary of the project in the languages of the countries taking part, with an information campaign by the members of the research group;
- utilisation of some of the materials for training purposes, with training courses for UniCredit management in the head offices in each of the countries taking part in the project.

### *Languages*

The main working language of the project was English. However, a significant amount of material was produced in Italian, taking account of the fact that the project leader was based in Italy and the largest international event (the Conference of March 2011) was organised in Modena (Italy). As specified in the project proposal, a short summary of the final report is currently being translated into the following languages: Italian, English, French, Bulgarian, Estonian and Spanish. These translations are to be published on the website <[www.fmb.unimore.it](http://www.fmb.unimore.it)> and on the websites of the organisations participating in the project.

## **PART II: ORGANISATIONAL ASPECTS**

### **Description of the work phases**

In academic terms the project consisted of three strands of research divided into four phases of work. The first strand laid down the logical premise for the others, concerning the actions taken by the social partners under the Lisbon Strategy. This was intended to provide an overview of the state of the art and prospects for future research, and also to construct a useful analytical framework, and as a result the Conference in March 2011 was incorporated into the phases of the project. This was in line with the implementation of proper accounting procedures for actions funded by the Commission. In this connection, it should be noted that one of the tracks at the Conference was dedicated explicitly to a retrospective analysis of the Lisbon Strategy.

The two subsequent strands of research were modified during the implementation of the project, in the light of critical aspects coming to light. As a result, phase 3 of the project was subdivided into the following activities, that replaced the research topics originally planned:

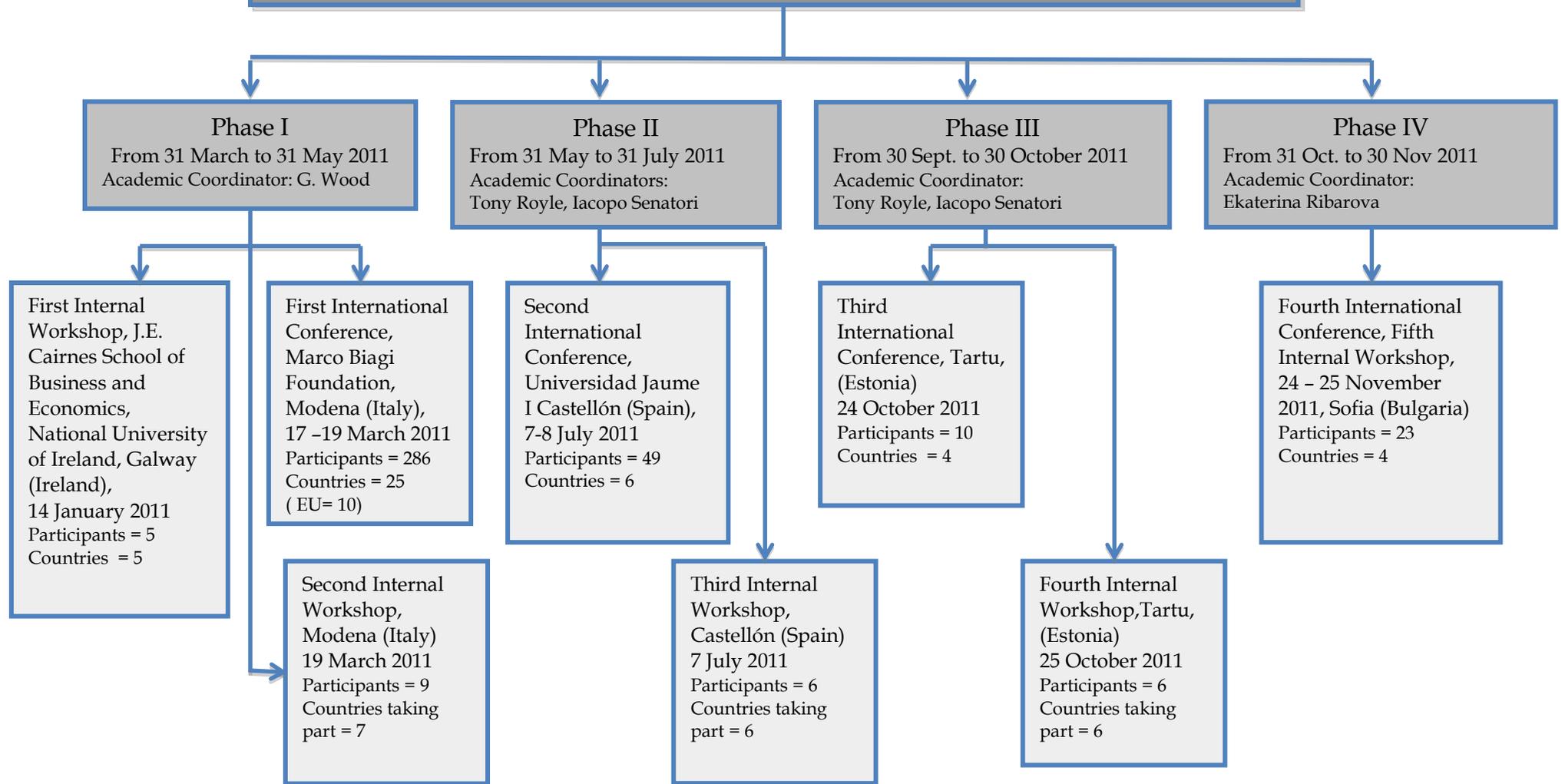
- an in-depth theoretical study carried out during the conference held in Castellón (Spain). In this phase the following topics were examined: collective bargaining (contents, general basis and gender equality); industrial relations and development of bargaining practices at transnational level;
- an in-depth empirical study consisting of a case study concerning transnational bargaining relations developed within the framework of the European Works Council of the UniCredit group. This in-depth study was carried out over the summer of 2011, and the results were presented at the conference held in Tartu (Estonia).

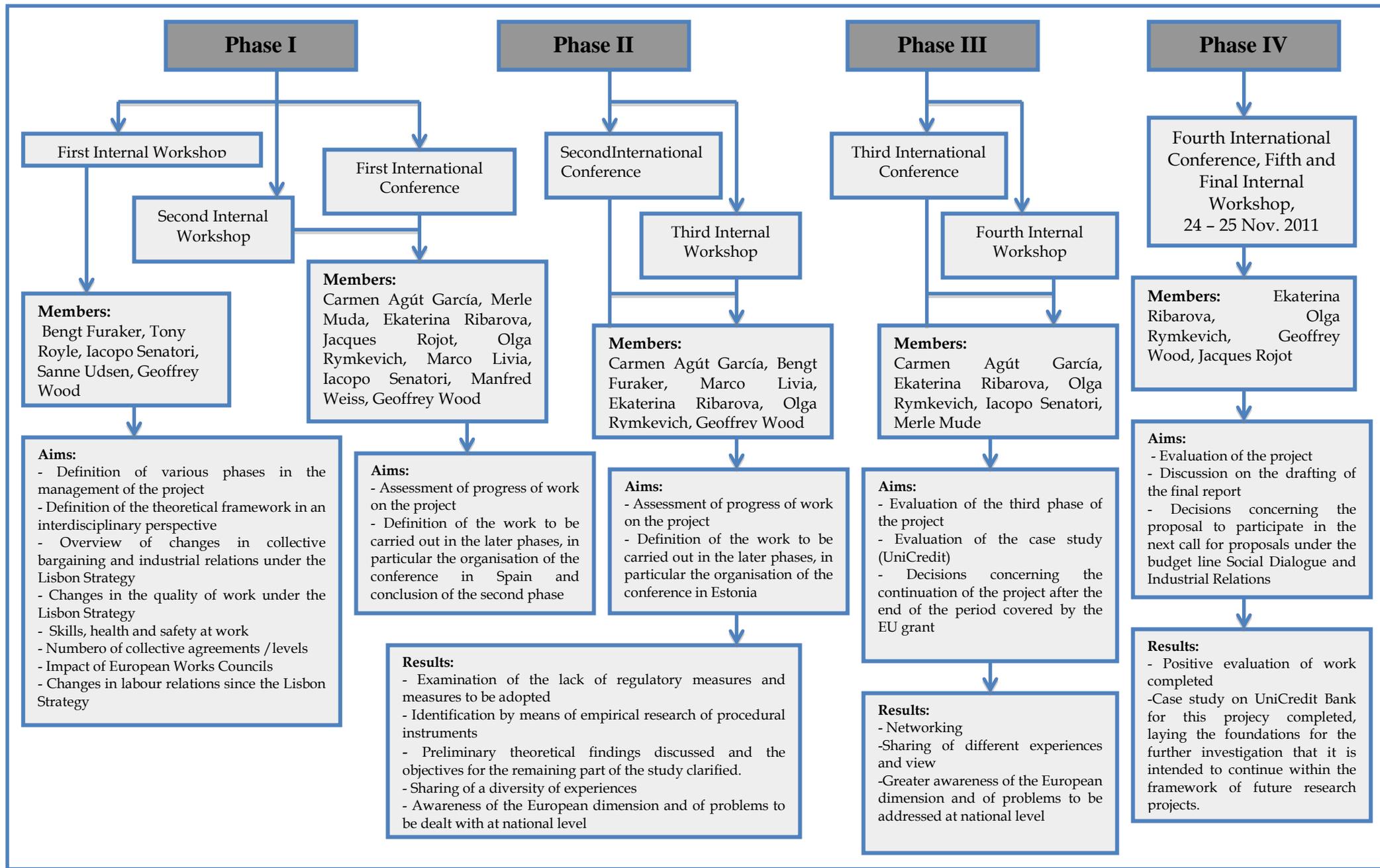
The final phase of the project, dedicated to a discussion of the final outcome of the research, was carried out in accordance with the original plan.

From the administrative point of view, the project was coordinated by the staff of the Marco Biagi Foundation, with Dr Olga Rymkevich as the contact person. In addition, it was intended to appoint an academic coordinator, among the members of the group external to the Foundation, for each of the three research strands, as well as an organisational coordinator for each of the events planned within the project. (Prof. Geoffrey Wood, Prof. Tony Royle with the support of Dr Iacopo Senatori, and Dr. Ekaterina Ribarova).

The products of the research, on the basis of the plan agreed with the Commission, were the following: a final report, four internal workshops and four conferences. In addition, a number of background papers, PowerPoint presentations and other materials were produced, and where appropriate published. Other dissemination procedures are specified above in chapter I section 9 of the present document. An overview of the various phases is given in the flowchart below.

**Agreement ref. no. vs/2010/0726**  
**The role of Industrial Relations in Europe 2020: From local concerns to transnational action**





## **THIRD PART: RESEARCH OUTCOMES**

### **CHAPTER 1**

#### **Executive Summary of the International Conference on Europe 2020: Comparative Perspectives and Transnational Action**

**(Modena, 17-19 March 2011)<sup>3</sup>**

**drafted by: Geoffrey Wood, Michela Cavallini, Sabrina Grivet Fetà,  
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#### **THE EUROPEAN SOCIAL MODEL IN EUROPE 2020**

The Lisbon Strategy was an action and development plan for the economy of the European Union adopted in 2000. A decade later, the European Union leaders decided to move beyond the Lisbon Strategy to the “Europe 2020 Strategy”, the goals and priorities of which are a more efficient reform programme thanks to the better definition of tools and improvement of coordination policies. To evaluate the extent to which the objectives laid down by the Lisbon Strategy were achieved, several important indicators were defined, with data collected and elaborated in each country.

With this aim, a number of studies took as a reference point SAPIR 2006, Search In Audio Visual Content Using Peer-to-Peer IR, (a technique that can provide significant advantages for the European community and can be applied to various fields), which highlighted the existence of four different European social models corresponding to different performances (in terms of efficiency and equity) in: Northern European countries, Continental Europe, Anglo-Saxon Europe and the Mediterranean area.

However, in addition to SAPIR, recent studies have considered

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<sup>3</sup> To be published in the on-line working papers *Quaderni della Fondazione Marco Biagi*, [www.fmb.unimore.it](http://www.fmb.unimore.it)

environmental sustainability, that was added in June 2001, during the European Council at Göteborg.

Then a list of more specific objectives was drawn up, though the policies are almost entirely a matter to be determined by the Member States. Even with the adoption of the subsidiarity principle, the EU still plays a significant role in promoting and monitoring through the Open Method of Coordination (OMC).

Since no form of funding for the Lisbon Strategy is foreseen, the OMC (which makes no provision for sanctions in the event of failure to comply with the Strategy) and the structural indicators used for monitoring the strategy itself, become extremely significant.

The main indicators regard the economic environment, knowledge and innovation, secondary education and social inclusion. However, previous development models (relating to the EU-15 Member States) highlighted such differences and the existence of a trade-off between growth and social equality.

A social model is considered “highly efficient” if it provides sufficient incentives for employment, thus generating high employment rates, and of “high equity” if the rate of poverty does not increase. Four distinct social models have been identified:

- the northern model (Denmark, Finland, Sweden and the Netherlands) is the only one that successfully combines equity and efficiency;
- the Anglo-Saxon model (United Kingdom and Ireland) is characterised by low rates of social assistance; until 2008 it was believed to promote high employment but the latest unemployment figures do not provide any empirical evidence in support of this claim;

- the continental model (Austria, Belgium, France, Germany and Luxembourg), unlike the Anglo-Saxon model, has a generous welfare system, but a lower labour market efficiency level;
- the Mediterranean model (Italy, Spain, Portugal and Greece) is unable to achieve either efficiency or equity.

In order to be able to observe the existence of the different European social models, and to reduce the wide range of variables, Principal Component Analysis (PCA) was applied.

It may be argued there are four main issues to be considered in evaluating the performance of European countries: economic development, employment and human capital, social exclusion and finally environmental sustainability.

The Northern model stands out for its excellent performance in all the areas under investigation: of these only the performance of the Netherlands was somewhat poor as far as the environment is concerned, whereas Norway stands apart from all the other countries for its use of energy generated from renewable sources.

On the other hand the Mediterranean model generally ranks in the lowest position. The OMC has not resulted in an effective convergence of all the countries towards the Northern model.

The difficulties of the EU Member States can be explained by various factors. First, the difficulty of the EU in defining intermediate objectives that are easy to monitor and able to effectively give direction to the final objective. In other words, the lack of governance and coordination among the various levels (community, national, regional) has added to low levels of participation on the part of the interested parties.

With reference to the enlargement of the EU to include the central and eastern European countries, the large gap in terms of economic development is still evident, making the divergence between western and

eastern countries clear (in spite of the impressive performance of Slovenia, for example). However, in spite of common economic difficulties, it is not possible to define a single model for central and eastern Europe.<sup>4</sup>

In the Europe 2020 strategy, among the most significant objectives it is important to underline, knowledge and education. The human capital of an individual is formed and developed through education, both formal (school) and informal (workplace, family, social life and relationships). Because of increasing advances in technology, all citizens have to continually improve and develop their skills.

In response to the challenges of globalization and the ageing of the population, in March 2000 the Lisbon Council adopted the strategic goal of turning Europe into a knowledge-based economy by 2010. The strategy also stressed the need for an economy based on the most competitive and dynamic knowledge in the world, thus identifying lifelong learning as a key resource for achieving competitiveness, employability, social inclusion, active citizens and personal development. As a result, the Lisbon Strategy specified five benchmarks (reference levels of European performance) in the key area of education and training to be achieved by 2010. These benchmarks started from the European average, and as a result, the failure to achieve those results was not subject to sanctions. Despite EU efforts in terms of investment, the Lisbon objectives have not been entirely achieved, partly because of the global economic and financial crisis.

The only objective fully achieved consists of a 15% increase in the number of graduates in science, technology, engineering and mathematics (the STEM subjects). Within the EU there are significant differences between countries. In Italy, where the reform of the academic programmes was

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<sup>4</sup> Bertolini P., Pagliacci F., *The Lisbon Strategy and European models of sustainability* (draft, not to be quoted)

implemented, the figure has grown steadily over the past decade (more than 11.4% per year).

However, in relation to three partially achieved objectives, significant progress was achieved:

1. an increase in the number of young people who graduate from high school
2. higher levels of adult participation in continuing education
3. a reduction in the drop-out rate prior to graduation.

The first indicator measures the education level of young people aged 20-24. According to the Lisbon objectives, at least 85% should complete their high school studies and obtain a diploma. Although the situation varies greatly from one country to another, the European average rose from 76.1% to 78.5 %.

For the second indicator, concerning adult (25-64) participation in continuing education, the target was 12.5%. In Europe the number of working-age adults (25-64 years) with a low level of educational attainment decreased by more than one million per year. Denmark, Sweden, Finland and the United Kingdom achieved the best performance, with a percentage of adults on training programmes more than double compared to the European average. The other “partially achieved” indicator refers to “early leavers from education and training”.

Generally speaking, for Italy, the results show that the decision not to continue with formal studies is linked to two factors: a sign of social distress that is concentrated in less developed areas, or the result of a sustained demand for unskilled labour that has an undeniable attraction for young people. To sum up, Italy has a discontinuous and irregular profile: the companies are the weak point of the Italian system, as there is a clear relationship between the size of the company and its willingness to invest in training.

Since the Open Method of Coordination is a broad interpretation of national subsidiarity, the European Commission stressed the limits of not achieving the Lisbon Strategy objectives. Adapting the Europe 2020 Strategy to the specific situation, each Member State is required to define general objectives and translate them into national targets, that are to be indicated annually in relation to five parameters (headline targets) laid down by the Europe 2020 Agenda. EU Member States will be bound to comply with the commitments undertaken and differences between countries will be considered. There are signs of recovery, especially in Germany and France, but in the opinion of experts it is still a fragile recovery. In the short term structural reforms are needed to promote economic growth.<sup>5</sup>

With regard to the social inclusion indicator, especially regarding gender equality, it is a widely held view that in the Europe 2020 Strategy, this objective has lost the headline position as one of four pillars in the initial 1997 European Employment Strategy.

In the most recent phase, gender equality appears to have been sidelined with the loss of specific guideline: there is only a simple mention in the preamble of EC 2005: 29: “Gender mainstreaming and the promotion of gender equality should be ensured in all action taken”.

The Europe 2020 agenda is framed around three priorities captured by the phrase “smart, sustainable and inclusive growth”. Arguably, gender equality is not one of the proposed flagship initiatives: goals in this field are instead dealt with by means of three separate instruments, the Women’s Charter launched in March 2010 (EC 2010g), the Gender Equality Strategy for 2010-2015 (2010l) launched towards the end of 2010, and the Pact for Gender Equality 2011-2020 (EC 2011b).

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<sup>5</sup> Verzicco L., *Structure and evolutionary dynamics of human capital in Italy after Lisbon Treaty: analysis and comparisons with other European Union countries*

Considering more directly the guidelines in the new Strategy and their associated targets and flagship policies, gender appears to have a low profile: the employment guidelines have evolved to include some references to women and gender inequalities. The word “women” appears in the title of guideline 7, and also a reference to job quality, but no further references are to be found to the gendered nature of the policies concerning the concentration of women in precarious work.

On the other hand, the economic guidelines remain completely gender-blind, apart from a statement in the preamble on inclusive growth policies that a gender perspective should be taken into account (EC 2010j: 6). All this contributes to the idea that the strategy is quite far from a gender mainstream policy structure: this would appear to be a lost opportunity.<sup>6</sup>

However, there is now evidence of a greater awareness of a positive connection between the development of work-life balance policies, investing in childcare facilities, and demographic growth.

In this connection, it is important to stress the role played by welfare systems that influence these policies. Several aspects of the low levels of female employment in Europe and Italy have been studied, with a focus on the factors that seem to create a virtuous link between maternity and participation in the labour market.

Female inactivity is particularly high in Italy and in countries with similar welfare systems. This issue is closely related to balancing employment and care (looking after children and older persons), to fiscal systems and also to the normative framework of the labour market.

However, female activity is a structural feature of European labour markets in general and of some kinds of welfare systems. Moreover, birth rates are higher in countries with advanced and generous protection (Isfol, 2011).

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<sup>6</sup> Smith M. and Villa P., *The Europe 2020 strategy and gender equality* (draft, not to be quoted)

OECD figures show that the employment of women with small children depends mostly on the availability of formal childcare facilities. High employment rates generate a demand for childcare services, whereas adequate provision of these facilities helps women combine work and family life.

There are three kinds of childcare facilities:

1. 'formal' ones that comprehend the whole range of formal childcare services, that is public and/or private facilities and childcare in school hours and also outside of school hours;
2. 'others' in which the childcare is generally provided by specialized personnel (such as childminders), grandparents or other relatives (parents excluded);
3. childcare provided by the parents themselves.

In 2002 the European Council in Barcelona urged the EU Member States to provide incentives for female employment by developing childcare facilities that would provide for at least 90% of preschool children. With Resolution 21/2/2008 on Europe's demographic future, the European Parliament invited EU Member States to be inspired by the best maternity leave practices, aiming at improving birth rates through family- and child-friendly policies.

Regarding employment rates of women in the 25-49 age group, Italy ranked last among the countries under examination. There are no significant variations when the employment of women with children is considered.

In Sweden, Finland, Denmark, the Netherlands and to some extent also Germany, the situation is completely different. Scandinavian countries and the Netherlands enable mothers to stay employed thanks to the widespread provision of formal facilities and, if they decide to leave the labour market, mothers can easily return to work at a later date. This is because they have particularly advanced welfare systems that play a major role in social

protection and the provision of flexicurity schemes.

In addition, Northern European countries, the United Kingdom and also Spain – with extensive formal childcare facilities and a low level of demand for the other types of childcare facilities – have largely achieved the Barcelona objective.

A decisive factor for determining parents' choices is the cost and availability of childcare facilities. Alongside Northern European countries and a small number of Continental European countries with no significant conflicts between family life and work, there are other countries – breadwinner family-centred countries – with strong conflicts between the dimensions. There appears to be a positive link between the availability of childcare facilities, female employment and birth rates. However, this link is not considered in Italy, that is at risk of 'demographic suicide' as many observers have argued.<sup>7</sup>

In the last decade, businesses have tried to adapt to the new challenges of the European Employment Strategy. In particular, collective agreements recently concluded by Fiat reflect the new Lisbon Strategy, especially regarding the Lisbon priority of "inclusive growth" and related competition and social cohesion issues.

A study was carried out of the Fiat-Sata plant at Melfi in Italy. The purpose of the analysis was to investigate socio-cultural dynamics and the existing relationships between changes in production and the local workers' culture and identity. These changes were a result of economic developments in the automobile industry, and these relations were considered in the context of national and international economic questions. They also affected the company's strategic decisions involving all Fiat plants. In response to the

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<sup>7</sup> Bergamante F., *The female participation morphology in the European labour market*

recession and the difficulties arising from globalisation, the European Commission highlights the need for a more competitive modern economy.

In the face of these difficulties Fiat adopted the objective of higher productivity through greater flexibility and employee involvement in production processes. Making a comparison between the Fiat collective agreements and the Lisbon Strategy, it seems that both strategies are inspired by cooperation and the pursuit of social equality.

However, a more in-depth study of the Fiat collective agreements demonstrates that the chosen means for achieving these objectives may turn out to be ambiguous. For example, the idea of participation included in the enterprise project is not entirely consistent with the “inclusive growth” principles laid down by the European Commission on 3 March 2010. Focusing on the meaning of the last priority identified by the Lisbon Strategy – joint or inclusive growth – it is possible to compare the main issues of the European project and the competitiveness and flexibility principles that inspired the reorganisation of labour relations at Fiat. The focus on occupation and skills on the one hand and social cohesion on the other led the Fiat management to propose in the Pomigliano and Mirafiori agreements an investment in training before launching new production programmes. The aim was to increase education, thus achieving higher productivity and flexibility, and full acceptance on the part of the employees of the company’s rules. However, the implementation of this project is indicative of a gap between Fiat policy and the purposes of the European Strategy. It is unclear whether the Fiat investment in training will translate into an increase in employment or more competitive position for Fiat employees in the labour market.

Another issue that led to a negative response to Fiat decisions regarding employment growth concerns the production decisions that might result in downgrading of the plant and consequently workers’ downgrading. As a result, the reforms included in the two collective agreements in no way

improve the situation of Fiat employees in the international labor market, but result in greater competition between plants in the same group, and that may lead to a deterioration of the general working conditions.

The Fiat response to the recession, aimed at improving “overall quality”, consists of minimising production costs in order to maximise profits, through greater flexibility and the implementation of World-Class-Manufacturing (WCM) procedures. Training programmes are strongly related to these issues. Theoretically, the implementation of WCM seems to comply with inclusive growth principles. However, WCM can lead to an intensification of work because of the increasing versatility of the worker. In addition to production, the worker has to deal with quality control, becoming an overloaded worker (as conceptualised in the work of Vittorio Rieser). This concept may turn out to be incompatible with the concept of participation included in the Lisbon Strategy. With reference to inclusive growth, the Lisbon Strategy included flexicurity (security during transition and change), a fundamental principle for the modernisation of labour markets.

The flexibility principle introduced in the Fiat plant restructuring programme is closely linked to training, but it does not provide the kind of social security the European project aims at. On the contrary, more intense global competition increases the risk of closure for the less productive plants and the risk of plant delocalisation to countries with lower production costs.

Another indicator of the ambiguity of the concept of participation is the company’s focus on directly relating production to demand. Fiat production is based on just-in-time organization, requiring continuity and symmetry between supply and demand on the markets.

Delocalisation, that is increasingly considered by Fiat, involves a transformation of relations in the workplace. This is the case especially when the management response to the economic crisis is that of bringing

Italian productivity levels closer to the levels of the countries to which delocalisation might take place. As a result, it is the global dimension that defines the Fiat workers' identity.<sup>8</sup>

## **THE ROLE OF TRADE UNIONS AND SOCIAL PARTNERSHIPS IN EUROPE 2020**

According to a definition of the European Commission (2002) IR can be considered as covering not only the relations between workers and management or between organisations representing them, and involving not only the regulation of wages and employment conditions, but also the relevant legal and institutional frameworks and public policies. There is a great diversity in industrial relations practices and processes across Member States: actors, processes, policies and frameworks operate at different levels, local or regional, national, European, even global, and sectoral dialogue can take place at all these levels.

Industrial relations deal both with social and economic integration at EU level. Although employee participation is an important aspect of collective rights, it is a matter governed primarily by the Member States rather than by EU provisions.

The impact of the early European directives on employee participation rights was not permanent and only since 1994 have they been driven by the general EU agenda. The first 1994 EWC directive (recast in 2009, with some improvements) defined as crucial the negotiating power of the social partners as workers, unions or MNCs. Although encouraging

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<sup>8</sup> Dinubila E., *Production transformation and cultural changes. Fiat case as reference/example*

international trade union networking, it does not allow employees to counter the power of MNCs.

The 2001 European Company Statute (ECS) *Societas Europaea* (SE) was supposed to protect and expand EU-level board and lower level participation rights. In spite of the slow initial take up, its influence is likely to increase in the long run (though traditional large firms are likely to keep the existing system).

In 2002, after the Renault scandal, the Information and Consultation of Employees Directive promoted by the Commission was adopted, but the measure has had limited legislative impact in increasing the incidence of information and consultation, due to the weak and minimalist transposition into the Member States' legislation.

Also the European Employment Strategy (EES) and the Lisbon Strategy do not seem to have achieved their goals, and not all Member States pay sufficient attention to the success of the Scandinavian model (consisting in low rates of poverty, low inequality, high employment rates, high productivity, high levels of education and research spending).

Extending the analysis to ECJ and ECtHR judgments, there appears to be a deregulatory bias and a tension between economic and social rights. The rulings in the *Laval* quartet of cases highlight an important question about where the line should be drawn between national and European legislation. The solution advocated by the ECJ is that a service provider from another Member State is obliged to follow the host agreement, but collective action must be proportional. The most recent ECtHR rulings require a justification when a restriction on social rights arises in cases in which the court has to strike a balance between national and European provisions.

The current European model is associated with a risk of social exclusion. The role of the European Parliament remains weak and the

Europe 2020 Strategy needs to be adequately addressed with regard to the erosion of national labour standards in order to stop the increasing fragmentation and wage inequality across Member States.<sup>9</sup>

The European Commission is evidently concerned about this issue, since they launched an extensive consultation among Member States, the social partners, other actors and the general public before implementing the EU 2020 Strategy. A total of 1200 responses were received by the Commission, but only 27 of them from trade unions.

The key criticisms and demands involved in this lack of participation reflect the nature of the Europe 2020 implementation process, before fully evaluating the results and the failures of the Lisbon Strategy, and the persistence of the ambiguities of the Lisbon Strategy.

The final statements of the Lisbon Council were welcomed by the trade unions (through the European Trade Union Confederation, ETUC) with a certain optimism, despite some doubts: the “broad and integrated [strategy] of economic and social renewal” (ETUC Report on Activities 1999-2002), linking both economic and social progress, was in general enthusiastically approved.

Certain criticisms were put forward from the very beginning of the implementation of the Strategy.

First, the creation of “more and better jobs”, an objective laid down in the Agenda, was exclusively oriented to supply-side measures, without fostering appropriate macroeconomic policies. This means that the central role in the renewal of the labour market was assigned to the adaptability, flexibility and mobility of the workforce, without taking fully into consideration the widespread nature of precariousness employment and workforce vulnerability.

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<sup>9</sup> Royle T., *A socially inclusive or exclusive Europe? A review of the outcomes of European social policies, legislation and European case law* (presentation)

Second, the danger entailed in “increasing employment in services” is an increase in low-paid and low-quality jobs.

Third, despite the initial declaration of the Lisbon Council, the Strategy showed a clear hierarchy rather than coordination between different policy fields, attributing to social and development policies a subsidiary, market-making role.

In 2005 in their response to the “new start” of the Lisbon Strategy and in 2010 (EU 2020 consultation) the ETUC expressed concern about the resulting imbalance between the economic, social and environmental pillars, although a joint declaration was presented with UNICE and CEEP which highlighted the issues of competitiveness.

In Europe 2020 the same ambiguities of the Lisbon Strategy are to be found, with simple adjustments and no fundamental change. European integration seems to be reduced to an elite, neo-liberal project, political choices are considered mere technical alternatives, the democratic deficit is dealt with through “cosmetic” measures such as institutionalising social dialogue and focusing on “governance” problems.

In this scenario, the options for trade unions are all “on the offensive”, aimed at reasserting social protections as rights, not just as a “productive factor” with a view to regaining lost ground in civil society.<sup>10</sup>

In this connection, the intervention of the Brazilian labour law scholar Nelson Mannrich is particularly significant, as a non-European model for the role of trade unions in the recent global economic crisis. The Brazilian trade unions, weak and not particularly active according to a widely held view, have been transformed and empowered to become staunch defenders of workers’ rights. Since they were first established, Brazilian trade unions

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<sup>10</sup> Hyman R., *From Lisbon to Europe 2020: The perspectives of national and European trade unions* (presentation)

have always been considered to be the *longa manus* of the State, characteristic of corporatist systems. Moreover, the current 1988 Constitution has maintained the old corporatist system and at international level, the ILO Convention 87, has not yet been ratified. The old union structure can hardly move forward with structural reforms of the current model of labour relations, including bargaining instead of greater legislative intervention.

Despite the ambiguities and contradictions, the role of trade unions during the crisis has been of great importance and has had a major impact on the flexibility of labour legislation. Despite the impact of the crisis, in 2009 Brazil began to show signs of recovery, also thanks to the labour law provisions, with various mechanisms including the reduction of working hours and wages through collective bargaining, the abolition of overtime, and the abolition of the night shift.

The lack of a legislative framework on collective redundancies is problematic: the absolute discretion of management has always been consolidated practice. With the onset of the economic recession, the unions have opposed large-scale dismissals, taking action in the courts and calling strikes. Various measures have been proposed in order to influence the business agenda of the next government for the creation of more and better jobs. There is no doubt that the trade unions in Brazil are combating the deleterious effects of the economic crisis, as well as promoting the exercise of fundamental labour rights, and this has acted against the adoption of antisocial or neoliberal economic measures.

However, it can be argued that trade unions have sometimes too radically rejected attempts to reconsider labour standards for workers. Ultimately, with regard to the search for a new trade model it appears that signs of change are emerging among the more enlightened unions, eager to promote social dialogue and the implementation of social rights through negotiation and not simply judicial intervention.

New types of solutions are presented, such as the prevalence of negotiation over legislation, with an active role for the parties in determining the conditions of employment: the proposal of an agreement regulating flexibility of the CLT (*Consolidação das Leis do Trabalho*) was drafted by the ABC Metalworkers Union in order to safeguard fundamental workers' rights, respecting the autonomy of groups of workers.<sup>11</sup>

As far as Europe 2020 is concerned, a traditional pillar of the European Employment Strategy needs to be taken into consideration: the concept of flexicurity, existing since 2000 and incorporated in both the Lisbon and the Europe 2020 Strategies. Since the instability of employment has become a central theme in labour law over the last decade, the European strategy of flexicurity aims at managing this structural uncertainty, combining employment flexibility and security in order to enhance adaptability, employment and social cohesion in the labour market.

All the actors operating in the labour market have to contribute to “making EU a smart, sustainable and inclusive” economy [COM(2010) Europe 2020], using both traditional and innovative instruments of social dialogue, collective bargaining and corporate social responsibility. One of the most important issues entailed in the flexicurity strategy is the shift from the traditional concept of “job security” to the new goal of “employment security”.

Employment security represents the “security side” of flexicurity policies, which, compared to the “flexibility side”, has not yet been sufficiently explored. Whilst job security is explained as a high degree of certainty of keeping the same job in the same company thanks to restrictive employment protection legislation (especially protection against dismissal), employment security is defined as the probability of having a job throughout a worker's

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<sup>11</sup> Mannrich N., *Trade unions and the economic crisis: cowards or heroes?*

career, with a broader conception relating not only to the current employment relationship and dismissal law, but also including mobility of workers in the labour market.

An important question in this connection is whether employment security includes or excludes job security, and thus the relationship between employment security and the “right to work”, first explicitly laid down in the 1948 Universal Declaration of Human Rights and then restated in all subsequent Human Rights Conventions. The right to work consists of various aspects, the most important of which are the right to earn a living from labour and the right to freely choose the type of employment. The right to work is a complex one, involving both civil and social rights: whilst the voluntary nature of work and the prohibition of forced labour are immediately enforceable human rights, the responsibility of the state to adopt a full employment policy is not considered to have a direct effect.

In recent decades, most EU Member States have implicitly abandoned full-employment policies, shifting to a full-employability policy, that can be explained as the opportunity to find a job at every stage of an individual’s life. This concept resembles the traditional understanding of the right to work, though entailing some new aspects.

Employment security is a multifaceted concept, which involves the aspect of employability (employment and adaptability), perceived as the workers’ ability to adapt to changes in the labour market. Both employers and employees have to work to achieve this through vocational training, education programmes and skills development, during the employment relationship and especially in the case of redundancy.

The social partners are explicitly counted on “to negotiate and implement agreements at all appropriate levels to modernize the organization of work, with a view to increasing investment in lifelong learning and to provide more time for learning.” (COM(2001) 678) However, trade unions cannot

negotiate the deployment of the workforce within a company, which is considered to be exclusively the management prerogative. Moreover, strict procedural limitations of the employer's power in allocating and transferring employees assigning them new tasks, although adopted in order to protect workers' rights, have the effect of keeping workers in the same jobs, rather than facilitating the learning of new skills and competencies.

The second important aspect of employment security is the management of transitions, in order to facilitate and protect workers in these phases. Workers can be involved either in transitions from inactivity to employment or in job-to-job transitions, also entailing transitions between different types of employment contract.

Despite the fact that the relationship between trade unions and temporary work agencies is usually quite difficult, measures taken to facilitate job-to-job transitions are quite common in collective agreements, although more often focused on "passive" (income-support) rather than "active" labour market policies (career guidance, retraining, outplacement). Trade unions should play a fundamental role in the topic of "rights transferability": most of the traditional workers' rights are attached to the contract and cease when it comes to an end. Transferability clauses (first of all for seniority rights) embodied in collective agreements could make the transition from job to job easier and more appealing.

The third aspect of employment security is the concept of employment itself. Collective bargaining on employment is a tradition in most EU countries, especially in the face of imminent collective redundancies or company restructuring, when the social partners may be prepared to make deals on wage moderation and working time flexibility in order to avoid job losses and in exchange for job guarantees and investment in employability.

Social pacts involve not only the trade unions and the employer (or employers' representatives), but also governments and public institutions,

taking measures which come close to the notion of employment security as laid down in EU policy documents, despite the usual presence of explicit safeguards for the workers who agree to bargained working time or wage flexibility.

In line with EU policy are the agreements between the social partners on employment for specific, “vulnerable” groups, such as the long-term unemployed, women or young people, extending the scope of the collective agreement to individuals who are not yet part of the labour market.

The importance has been demonstrated of the role that the trade unions and the social partners can play in implementing European labour strategies and especially employment security. Collective bargaining can take place at different levels (national, sectoral and enterprise) and between different actors (bipartite or tripartite bargaining).

Collective agreements, though fundamental, are not completely free in their content: formally defined as private contracts, they have to respect the provisions of mandatory labour and competition law, including the equal treatment principle. The relationship between state law and collective agreements and between the social partners in the negotiating procedure remains a question of a balance of power, especially in countries in which collective bargaining is based on a voluntary model and not on provisions laid down by law.

Another problematic aspect is the binding nature and effectiveness of provisions laid down in collective agreements, which differ from country to country and are not governed at EU level. Other limitations to the effectiveness of collective agreements derive from their scope and their period of validity, which are laid down through the same power relationships that establish the agreement.

Since the central concept of employment security is a multifaceted one, and since it is not supported by a standard definition at EU level, the role of the

social partners and collective bargaining in the different situations at European, national and local level is fundamental.<sup>12</sup>

In recent decades, new forms of governance have emerged and become popular in establishing social dialogue and industrial relations: the interaction between government and private actors has produced new and open processes of decision-making and policy implementation.

In a more global Europe, one of the fundamental policy goals is promoting democratic processes in the sense of making the institutions of global governance more participatory and much broader: in this connection it is necessary to underline the role of industrial relations.

Several analysts refer to the convergence or Europeanization of IR: new governance focuses on better involvement of non-governmental actors, greater flexibility in Community legislation and greater use of different policy instruments (European Commission, 2001). In this way, the nature of national governance has changed: the creation of new options at European level has reduced the extent of national power, contributing to the decline of the concept of the “nation state”.

This situation has given rise to new actors: at global level the ILO has always promoted tripartitism among all the (current) 183 member countries in producing 188 Labour Conventions and it has also tried to introduce multi-stakeholdership and soft law tools, involving NGOs. The current aim is to improve the situation of workers by certification initiatives such as Fair Trade and Social Labelling.

Moreover, civil regulation initiatives have been developed, at first in the sense of self-regulation by MNEs, later in the form of more mandatory agreements such as Transnational Framework Agreements (TFAs). Other examples of new modes of governance are voluntary codes of conduct.

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<sup>12</sup> Zekic N., *Employment security in collective agreements* (draft paper)

Transnational Framework Agreements are important as they are intended to support the emergence of global social dialogue and a global IR framework. It is estimated that about 10 million employees are covered by these agreements and the fact that they are inspired by ILO core labour standards and rights reflects an interaction between public and private regulation which contributes to social dialogue. In connection with social dialogue, one of the most remarkable developments in historical terms is the adoption of social pacts, signed by trade unions, employers' association and governments and widely implemented in the 1970s, in order to help weak public institutions to manage wage, employment and labour issues.

The revival of tripartite pacts in the last two decades aims at enhancing adaptation policies in the context of economic and productive innovation in an era of globalisation.

A central concept in industrial relations is that of path dependency, indicating a sort of inertia, which leads the social partners to make the same decisions again and reasserting traditional negotiating patterns. Despite a certain path dependency in collective behaviour, the innovation taking place over the last few years, also during the global financial crisis, has encouraged social actors to new mechanisms of adaptation. Industrial relations clearly develop in an economic context, subject to change and innovation, forcing institutions (and the industrial relations actors) to reconsider their role, stability, basis of consensus and power relations.

What is new in the use of social pacts in European countries is the intention of fairly weak public institutions to gain support from social actors in order to achieve consensus in implementing strategies in compliance with EU objectives (especially those laid down in the Maastricht Treaty).

The social partners are keen on signing pacts and agreements, provided that sufficient resources are available for an advantageous exchange of benefits. The development of these exchange relationships is a matter of power,

which is continuously redefined by the strength of the social partners and the public institutions.

In recent years, both the trade unions and employers' associations have become more uncertain about their role: the appeal of employers' associations is limited for multinational corporations, while on the other hand certain sections of the workforce do not feel represented by traditional unions. The contractual freedom of multinational companies has progressively encouraged bargaining and agreements at local and even enterprise level.

Moreover, the concept of path dependency has been undermined by the global financial crisis, that has given rise to uncertainty and completely new patterns in managing industrial relations, with a revival of social conflict.

The European dimension of industrial relations has been slowed down by the strong and autonomous intervention of national governments in managing the crisis and defending their own enterprises and labour force. However, European workers' representation has undergone a certain amount of development, due to the evolution of the learning process by the social partners at EU level.

In this perspective, the main challenge for the social partners is the adoption of new strategies, capable of extending employment rights to all European workers and providing the industrial relations system with a proper EU dimension.<sup>13</sup>

In the view of the European Union, an effective strategy is that of flexicurity, with a shift from the traditional "aid" model of welfare to a more dynamic, active and proactive model of "welfare to work", as outlined in the 2009-2011 ESF (European Social Fund) Action Plan for re-employment policies.

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<sup>13</sup> Baglioni M., *Labour Relations between Europeanization and Path Dependency* (paper presented at the Marco Biagi Conference in Modena, March 2011)

A special project was presented by Farindustria (the Italian employers' association in the pharmaceutical sector) and the trade unions at national level, with the aim of supporting the re-qualification and re-employment of certain groups of employees in this sector. The project, Welfarma, was launched in November 2008, adopting a multi-stakeholder perspective.

A 12-month survey was conducted among the different categories of participants, analyzing documents, carrying out semi-structured interviews with a questionnaire to be filled in. In recent years, the Italian pharmaceutical sector has undergone a major restructuring process, due to the global financial crisis and the change in production and market patterns. The most evident result was the over-staffing of pharmaceutical representatives in the sector, who have to be reallocated elsewhere in the labour market, respecting their highly specialised professional skills.

The Welfarma model is a voluntary tool of corporate social responsibility, which involves a range of actors, both private and public, at national and local levels. The implementation of the model is based on two choices: first of all the choice on the part of the company and the trade unions on whether to include the "Welfarma option" in their collective agreement on crisis management, and second the choice on the part of the employees to join the Welfarma programme. The key components of the project are vocational training and life-long learning.

The actors involved in the implementation of Welfarma are the employers, employees and their representatives' associations, private employment agencies (involved in the retraining and re-employment services), the Ministry of Labour (through the "Italia Lavoro" network) and the Observatory set up by the social partners to monitor the development of the project. Participation in the Welfarma model has been generally satisfying, for various reasons.

First of all, the existence of national guidelines shared by the trade unions and employers' associations has provided the agreements with a solid basis

and a consolidated procedure. Second, the companies involved in designing the model have approved the strategy as compliant with their organizational structure. Third, the adoption of Welfarma is considered positive for the companies in terms of image.

Clearly, not all the companies joined Welfarma with the same attitude: some of them conceive their role as mere financial sponsors, some others feel responsible for the reallocation of redundant employees, while others have an active perception of the importance of creating new employment opportunities.

As far as the employees are concerned, the model does not appear so appealing: participation on the part of disadvantaged groups (young or older workers, women) is limited, while the original addressees of the measures, the pharmaceutical representatives, conceive themselves as a highly specialised, self-confident professional elite with a wealth of personal contacts, with no need for support in re-employment. However, the more the trade unions managed to disseminate information, the keener the workers were to keen join the Welfarma programme.

The synergic cooperation among the various actors has not worked effectively in every situation: the trade unions and employers' association have worked positively and constantly together, fully accomplishing their goals. Local institutions have played only a limited role, with a prevalence of direct contacts among companies, workers (and their representatives) and employment agencies. However, employment agencies have not cooperated with each other since they perceive themselves as competitors and not as partners.

The most important role in implementing the Welfarma strategy was played by information and learning programmes: the first as a tool for enhancing participation in the model, the second as the means for promoting re-employment and outplacement of the workforce, when the entire sector is affected by the same critical situation.

The principal criticisms of the Welfarma experience concern the lack of clarity in defining the roles of the different actors in the project, with the related operational difficulties, the limits on the circulation of information among the different levels of the project, and the absence of effective support from public and especially local institutions. Nevertheless, Welfarma can be considered an important attempt to extend corporate social responsibility beyond the confines of companies, involving synergy and cooperation between actors at various levels. The model of industrial relations suggested by this experience entails a co-responsibility perspective, in which employers and employees with their representatives, employment agencies and public institutions implement a flexicurity strategy and promote “welfare to work”.<sup>14</sup>

## **TRANSNATIONAL COLLECTIVE BARGAINING**

In his presentation at the Conference, Prof. Edoardo Ales examined problems connected with the definition of the transnational dimension of Industrial Relations (IR) and proposed four categories according to which transnational agreements can be classified. He defined the transnational dimension as a “crossroads” of interdependent national, supranational and international IR systems. In this perspective, transnational norms are defined as those adopted by workers and employers who agree on rules that go beyond the national level, in a way favourable to the workers, without belonging either to the supranational or to the international context. Similarly, in another presentation,<sup>15</sup> the term “transnational” referred to a

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<sup>14</sup> Riccò R., Gilardi S., Solari L., *A multistakeholder system for implementing flexicurity: the Italian model of Welfarma*

<sup>15</sup> Jones K. L., *The Use of Corporate Codes and International Framework Agreements in Defining a Multinational Corporate Social Responsibility a Decade after the UN Compact* (paper presented at the Marco Biagi Conference in Modena, March 2011).

process of “moving back and forth across country borders”, that goes beyond the existence of national or international laws.

It was argued that with regard to transnational agreements, most of them are “prompted” by or “spun-off” from EU law, as well as “modelled” on international standards, while a minority are “spontaneous”.

First, “prompted” transnational texts are defined as forms of interaction between the European Social Partners and EU law, institutions or policies, which are not transposed into a Council decision pursuant to Art. 154 and 155 par 2. TFEU, such as the Autonomous European Framework Agreements signed between 2002 and 2010 (Telework 2002; Work-related Stress 2004; Inclusive Labour Markets 2010). They were concluded autonomously by the social partners, though at the same time they were prompted by EU institutions and policies. Similar conclusions may be drawn concerning the European Social Partners’ Framework of Actions on Lifelong Development of Competencies and Qualifications (2002) and the Framework of Actions on Gender Equality (2005), which can be considered as prompted transnational, due to the fact that they were both aimed at contributing to the implementation of the Lisbon Strategy. Not surprisingly, the Lisbon Treaty seems to boost the prompted transnational by adding Art. 152 to the TFEU, according to which the EU facilitates dialogue between the social partners, while respecting their autonomy.

Second, Ales explained how International or European Framework Agreements, signed by European Works Councils (EWCs) with Multinational groups or Companies, can be regarded as “spun-off” transnational agreements. They are characterised by the fact that they go beyond the scope of EWC action, providing a transnational regulation of hard and sensitive issues, albeit in a soft way. In this perspective, among other examples, mention may be made of the Agreement governing the separation of the Ford Visteon organisation signed by Ford Europe in 2000,

which regulated the transfer into separate legal entities (Newco) of Visteon activities owned at that time by Ford in Europe and their employees.

Later, a growing number of multinational groups or companies adopted transnational agreements and codes modelled on international standards. They can be considered a paramount example of the transnational dimension of IR. These agreements, such as the “Code of conduct on fundamental labour rights at work” for companies operating in the textile and clothing sector are inspired by the ILO Declaration of 1998 on Fundamental Principles and Rights at Work. On the workers’ side, they are characterised by a wide variety of bargaining agents/signatory parties. On the employers’ side, the organisations are hardly ever involved in negotiations. In this perspective, the “modelled” transnational level can be understood as a multifaceted, group or company level, sub-dimension of the multifaceted transnational dimension of IR. This sub-dimension can be interpreted as “global”, when workers’ interests are represented by International Trade Unions, or as “glocal” when the same interests are jointly represented by International/European and national trade unions.

Finally, the residual category of the transnational is represented by “spontaneous” transnational agreements and codes that regulate crucial aspects of employment and IR, such as equal opportunities, anticipation of change and trade unions’ recognition. An example can be found in the AREVA - EMF Group Agreement on Equal Opportunities of 2006, signed by the French MNC and echoing the European Social Partners Framework of Actions on Gender Equality (2005). In a broader perspective, the unilateral transfer of multinationals’ employment practices can be seen as a sign of unilateral ‘spontaneous’ transnational action.

To conclude, whether “prompted”, “spun-off”, “modelled” or “spontaneous”, transnational agreements and codes could be regarded as

establishing a multifaceted jurisdiction in the sense of a multi-level governance approach. In this way, a favourable environment can be developed for the enhancement of social cohesion and for the fight against social dumping. In the current scenario, transnational collective bargaining at sectoral level, the weakest link of the transnational framework, could be recommended as a balanced instrument to regulate differentiated working conditions at European level. To establish a framework for sectoral and cross-sectoral transnational collective bargaining, there is a need for legislative action (a Council regulation) and, according to this proposal, European Sectoral Trade Union Federations and Employers' Organizations may decide to take part in negotiations to conclude EU transnational collective agreements to be implemented via managerial decisions at company level. In this way, a further typology of transnational may be conceptualised within the multifaceted transnational jurisdiction, i.e. transnational "assisted" by supranational<sup>16</sup>.

In the context of the discussion on transnational dimensions of IR, Prof. Daniela Comandè reviewed the existing legislative framework for collective bargaining at EU level, which shows both its changing nature over time and the limited amount of detail, differentiating it and making it autonomous from traditional national systems. The development of this framework reached a crucial point after the entry into force of the Lisbon Treaty, which reinforced social dialogue as a pillar of the European social model and a primary instrument for cohesion, shaping in Articles 154 and 155 of the Treaty on the Functioning of the EU (TFEU) the fundamental principles of its regulatory framework, where negotiation and its outputs coexist with institutional provisions. A crucial point concerns the final phase of this

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<sup>16</sup> Ales E., *The Transnational Dimension of Industrial Relations: from 'Crossroads' to Multifaceted Jurisdiction?* (paper presented at the Marco Biagi Conference in Modena in March 2011)

process, with the coexistence of hard and soft instruments for implementation, impacting on the efficacy and effectiveness of the agreement reached and, more generally, on the freedom of collective bargaining. This freedom is said to be protected by the highly pluralistic and voluntary nature of European social dialogue.

Article 155 TFEU is particularly significant for autonomous collective bargaining in the perspective of horizontal subsidiarity. The hypothesis that this provision could represent a point of convergence between the supranational legal framework and the social regulation of industrial relations at European level may be considered. As a result of its “open” structure, questions are raised about the possibility of including all bargaining at European level, meaning not only instruments for autonomous social dialogue such as agreements at sectoral and intersectoral level, but also transnational agreements at sectoral and firm level concluded between actors who are representative at the European level. In the opinion of Comandè, this broad interpretation is justified. Furthermore, the presence of various collective actors makes it difficult to identify “the essence of an autonomous legal order”, but highlights the need for an effort to outline the process of production and implementation of the outcomes of negotiation.

It is also argued that it is necessary to leave aside the “purely binary logic of binding vs non binding” for all acts that are not implemented through a decision of the Council, as their effectiveness depends on the binding nature that is accorded to them by the partners and that is measurable through time by their dissemination. A look at negotiating procedures that goes beyond the formal label assigned to them makes it possible to distinguish between “common positions” and “mutual commitments”. While common positions are constituted by documents agreed upon by the European social partners and aim to influence public actors responsible for European social policies (in the Commission’s terms they are called “joint opinions”), mutual commitments contain clauses that are relevant for members of the coalitions

involved and can range from regulatory provisions to recommendations and procedural agreements. Different agreements are therefore negotiated according to the nature of the actors and the issues to be dealt with. The author further states the need for evaluations to go beyond hard regulation and to consider those developments as “a good starting point to grasp the prolific and heterogeneous autonomous negotiating activity at European level”. Moreover, new regulatory schemes (the Open Method of Coordination, the exchange of information, benchmarking) make use of follow-up mechanisms, of which some examples are provided on issues such as the development of competences and qualifications and Corporate Social Responsibility (CSR). In the author’s view, they represent versatile and efficient instruments for the transmission of issues to national employment systems. Attention is also paid to the negotiation of transnational joint texts and agreements within multinational enterprises dealing with CSR and the extension of rights to workers employed outside the EU. The role of sectoral European trade unions and European Works Councils (EWCs) in dealing with issues such as restructuring, health and safety, and protection of personal data is also acknowledged.

To conclude, legislation can be considered an incentive for social negotiation, which becomes the means for achieving social policy targets, without being deprived of its autonomy from institutions. This generates what is sometimes called the new “freedom to circulate documents”.<sup>17</sup>

In her contribution, Ekaterina Ribarova remarked that trends towards transnationalisation could encounter strong opposition from supporters of the *status quo*, especially in transitional countries, particularly the new Member States such as Bulgaria.

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<sup>17</sup> Comandè, D., *Il sistema di relazioni industriali nello spazio giuridico europeo: esiste un legal framework? (The industrial relations system in the European legal area: is there a legal framework?)* (paper presented at the Marco Biagi Conference in Modena in March 2011)

The author provides an evaluation of the Lisbon Strategy, underlining the different and generally modest outcomes achieved in the EU countries and the worsening of the conditions for its implementation after the global crisis in 2008, especially in the new Member States. The major challenges facing both the Lisbon and Europe 2020 strategies have not changed substantially: a competitive and knowledge-based economy, a modern and inclusive social model and environmental protection are at the core of the balance between economic growth, social inclusion of vulnerable groups and environmental aspects. A further issue of concern is represented by the quality of jobs, which in most cases are atypical and precarious.

The creation of better conditions for making the EU competitive in the world economy is therefore even more urgent and central in the Europe 2020 Strategy, but it has to deal with social models and industrial relations systems negatively affected by the crisis. The author points out how the new strategy, increasingly focused on environmental and education issues, has attracted criticism on the part of trade unions representatives at EU level because of shortcomings such as its limited ability to deal with the consequences of economic, financial and environmental crises; the absence of attention to issues of labour market fragmentation, wage inequality and job quality; the sole reference to inequalities in health and poverty, and the scarce attention to differences among Member States. Reference is also made to the Single Market Act adopted by the Commission as a useful instrument for the implementation of the new strategy, though mainly focused on common market rather than social issues.

The author examines changes in employment and industrial relations in the light of Europe 2020. The initiatives foreseen by the new European strategy will have to deal with changes in the industrial system, leading, on the one hand, to the appearance of new jobs, companies and sectors and, on the other, to the decline of others. Some of the most evident changes taking

place are in sectors linked to “green energy”, where the need for new skills and competences must be met as a prerequisite for the viability of the sector. On the other hand, the author underscores the problems encountered by traditional energy-intensive industries. However, investment in green sectors such as renewable energy and ecological construction is considered a significant means for creating new jobs, if the required skills are developed by adequate policies. Other challenges for labour markets and labour relations arise not only from global competition, but also from the conflicting interests of EU member states. New approaches to industrial relations and in the stance of the social partners towards emerging challenges are necessary, but also some features of the EU 27 will impact on the outcomes of Europe 2020: distinct national systems of industrial relations which also affect employment policies; different levels of development of collective rights across Member States and a differentiated integration of national social partners in European social dialogue, giving rise to difficulties in its development; trends of deregulation and decentralisation of collective bargaining and the low level of involvement of the social partners in the implementation of EU strategies.

Finally, an evaluation of the Bulgarian economy and society in the light of Europe 2020 is presented. Among the main challenges in the world of work, attention is given to the still incomplete transition to the market economy and the lack of long-term strategies among businesses; a need for reform in social security, health and educational systems; a need for flexibility and work-life balance measures. In the field of national industrial relations, Bulgaria needs a change in social partners’ values and structures; greater participation in European social dialogue; better development of bipartite dialogue at different levels; a more progressive stance of social partners towards change (e.g. in the green economy); a better implementation of new

rights in the workplace, such as information and consultation of workers and of CSR policies also outside multinational enterprises.<sup>18</sup>

Moving from a EU-centred to an international perspective on IR, Reynald Bourque and Marc-Antonin Hennebert deal with the development of International Framework Agreements (IFAs), focusing on the case of Quebecor World Inc.

Generally speaking, two factors lead to the signing of IFAs: on the one hand the promotion of Corporate Social Responsibility, on the other the dynamic change on the part of the international trade unions that have started to use IFAs as tools to ensure the application of the codes of conduct in multinational corporations. The purpose of IFAs is to encourage the respect for all rights laid down in the 1998 ILO Declaration on Fundamental Principles and Rights at Work. Although IFAs are not legally binding, multinational companies generally adopt them in order to maintain good relations with the trade unions both at national and international level.

As regards the bargaining process for the creation of IFAs, this is generally initiated by the GUF (Global Union Federation) affiliate in the country where the headquarters of the MNC (Multinational Corporation) is based and commonly requires two or three meetings between the representatives of the GUF and the MNC's Human Resource Department to reach a final agreement. However, sometimes the process is not straightforward and conflict and union mobilisation can occur.

The case study reported, in which an IFA was successfully concluded after a strong union response to the reluctance to sign on the part of the MNC, is that of Quebecor World Inc. This company was in the process of restructuring when the first international contact between the various

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<sup>18</sup> Ribarova E., *Industrial relations transformations in the framework of the EU standards: the case of Bulgaria* (paper presented at the Marco Biagi Conference in Modena in March 2011)

Quebecor World trade union representatives around the world took place. These meetings led to the birth of the working group “UNI Network@Quebecor World,” with a view to increasing union representation within the company.

UNI started to organise campaigns to promote contacts between union representatives around the world and to facilitate access to the union by the workers. Although those actions were followed by a strong anti-union campaign by the employers, UNI succeeded in concluding an IFA in 2007, in which the company committed itself to respect fundamental labour rights. According to Walton and McKersie’s model,<sup>19</sup> the first phase of the process, known as distributive bargaining, reflects the initiatives of UNI to mobilise the support of politicians, customers and stakeholders. On the other hand, to protect its public image, the company agreed to enter into IFA negotiations on condition that the agreement would not be legally binding, leading to a deadlock in the negotiations.

The second phase, integrative bargaining, started when a replacement was made in the management and the new Chairman/Chief Executive Officer brought the company back to the table and negotiations became more productive.

Third, the attitudinal structuring phase refers to the parties’ attitudes to each other. UNI started with a cooperative and open-minded spirit but subsequently this was replaced with a more offensive approach because of the deadlock. However, the cooperative attitude returned with the change of approach on the part of management.

Finally, the intra-organizational bargaining phase concerns the internal debates on each side (management and trade unions).

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<sup>19</sup> Walton, R, McKersie R., *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System*, Ithaca NY: Cornell University Press, 1991.

In light of the application of collective bargaining theory to the case, it appears that the classical model could be applied at the international level. However, the model does not take into account some particular features, typical of the international collective bargaining process: the absence of a legal framework; the complexity and legitimacy of the actors; a system of interactions that is not formalised at international level and that could work in favour of companies.<sup>20</sup>

Further insight into the limits and potential of IFAs is offered by other contributions dealing with the increasing use of IFAs, many of which are now being drafted to include legally binding requirements for MNCs and for their suppliers to implement CSR standards. This phenomenon arises from the urgency to establish international policies that can be applied across MNCs in the context of the globalised economy, taking into account the failure of the UN Global Compact voluntary principles.

Despite the lack of strict mandates requiring corporations to adhere to the principles, there are several quasi-governance mechanisms that try to establish some level of corporate accountability, such as Corporate Codes and IFAs. First, Corporate Codes of Conduct can be regarded as instruments stating how a company and its employees should behave. Although they establish that appropriate corrective actions may be taken, this vague statement is not accompanied by any real means for reporting violations or enforcement against the violators. IFAs can be regarded as a second quasi-governance mechanism, different from European Framework Agreements (EFAs) which are collective agreements negotiated within the European Union, since they have a global scope.

One of the biggest challenges with IFAs is that there is no clear enforcement mechanism that ensures compliance with these agreements. A promising

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<sup>20</sup> Bourque R., Hennebert M.A., *Cross-border trade union alliances and international collective bargaining. A case study in a Canadian multinational company* (paper presented at the Marco Biagi Conference in Modena in March 2011)

initiative is that of John Ruggie, the UN Secretary General Special Representative on Human Rights and Transnational Corporations and other Business Enterprises, summarised in the principles of the “Protect, Respect and Remedy” Framework.

To conclude, two possible ways to ensure compliance with IFAs can be inferred from these principles. First, establishing standardised provisions for multinational corporations to use in IFAs (known as “safe harbour” language) could help to show the adherence to the UN Global Compact framework and to identify how business might comply. Another key aspect outlined in the Guiding Principles is the idea that alternative dispute resolution might be a good option for early local dispute resolution, since it is less formal than traditional forms of dispute resolution. Specifically, mediation may provide the most effective means for addressing IFA disputes, but equally relevant is the use of conciliation in effectively resolving CSR issues.<sup>21</sup>

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<sup>21</sup> Jones K. L., *The Use of Corporate Codes and International Framework Agreements in Defining Multinational Corporate Social Responsibility a Decade after the UN Global Compact* (paper presented at the Marco Biagi Conference in Modena, March 2011).

## CHAPTER 2

### Castellón meeting

**Title: Transnational Industrial Relations: Theoretical Framework and Empirical Evidence**

**Place: University of Jaume I, Castellón de la Plana, Spain**

**Dates: 7-8 July 2011**

The Second International Workshop on *Transnational Industrial Relations: Theoretical Framework and Empirical Evidence* was held in cooperation with the Faculty of Law of the Jaume I University, Castellón, on 7-8 July 2011. The Workshop was intended to provide an in-depth examination of the theoretical aspects of the project first presented at the Marco Biagi Conference in Modena in March 2011 with the objective of promoting dialogue between the social partners.

At the beginning of the session Prof. Carmen Agut García described the key characteristics of trade unions and collective bargaining in Spain. The presentation provided an overview of the various reasons given by researchers to explain the growing inequality in collective bargaining with an emphasis on the repercussions of globalization on industrial relations. In addition, it presented evidence on the role of collective bargaining institutions with regard to promoting more equitable income distribution.

It was noted that Art. 28 of the Spanish Constitution of 1978 upholds the right of trade union freedom as a fundamental right. This means that in the absence of a special enactment law it is directly applicable. The collective holder of this right must satisfy the subjective criteria. Only trade unions set up according to the Law enacting Art 28. 1 of the Spanish Constitution (*Ley Orgánica* 11/1985 of 2 August on Trade Union Freedom (LOLS)) can be legitimate holders of this right. On the other hand, any other collective body besides trade unions, even when it represents and defends

the interests of workers and has been granted legal recognition, cannot qualify as holders of this right and, as a result, cannot enjoy the rights and freedoms that trade unions have. It is argued that those wishing to promote fair globalization should give a central role on the labour market agenda to support for the development of effective institutions for collective bargaining. In this regard, it is important to focus on the influence of globalisation and inequality in collective bargaining, where global economic integration has had a strong impact on the average real incomes of the poorest sectors of the population.

The speaker stressed the effects of globalisation on collective bargaining and, in particular, the implications for wages and income distribution. Globalisation has made it easier for companies to relocate or to threaten to do so. As a result the management of these companies have more power in negotiations with their employees. The risk of outsourcing of production to other countries has increased the insecurity of workers and undermined the bargaining power of the unions.

The next speaker, Dr. Rymkevich, noted that one of the driving forces of transnational company agreements is globalisation and underlined the fact that the greater ease in the movement of capital has increased competition in product markets. This has given rise to a new set of challenges for collective wage bargaining, leading some countries to pursue a policy to reduce trade unions bargaining power and to carry out political reform of collective bargaining. Neo-liberal theorists have argued that collective bargaining modified the free interaction between the supply and demand for labour thus creating labour market rigidity. In countries where employment levels have decreased, governments have a strong incentive to ensure that salaries remain “competitive”.

Next, Prof. Maria Amparo Garrigues explained that paradoxically economic globalisation has accentuated differences in industrial relations and social policy. This differentiation has reached its highest level in the

current global economic crisis. In the speaker's view, it is an unfavourable scenario for achieving the transnationalisation of equal opportunities and equal treatment for women and men in employment: it is a complex scenario also for social dialogue.

### ***Collective bargaining and equality of wages***

A recent review of empirical research found no conclusive evidence to support the idea that collective bargaining hinders labour market performance. In contrast, social partners in many European countries reacted to the operation of the collective bargaining system, adapting their practices according to the new imperatives of economic and labour market performance.<sup>22</sup> Instead, what studies show is that in labour markets in which collective bargaining mechanisms play a prevalent role, wage structures are more stable and there is a more equal income distribution.<sup>23</sup>

Such mechanisms include a strong representation of union interests, multi-employer bargaining, centralised collective bargaining structures, extension clauses for collective agreements and various ways to coordinate negotiations. In 2006, the OECD modified some of its previous recommendations:

It would be useful to take more account of the fact that national industrial relations practices are part of the social and political fabric, which means it is not easy to change the structure of negotiations by government measures. Recent experience also suggests that more space should be given to the potential contribution of collective bargaining with central coordination.<sup>24</sup>

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<sup>22</sup> Ebbinghaus B. and Kittel B., European rigidity versus American flexibility? The industrial adaptability of collective bargaining. *Work and Occupations*, 32, 163-195. 2005

<sup>23</sup> Blau F. and Kahn L., Institutions and laws in the labour market. In O. Ashenfelter and D. Card: *Handbook of Labour Economics*, vol.13. 1999

<sup>24</sup> Employment Outlook: Boosting jobs and incomes (OECD, Paris). 2006:

Other studies reveal that some unions negotiate collective agreements that result in hardly any difference between wages in unionised and non-unionised companies. Unions often seek to increase wages that are at the bottom of the wage distribution scale, as a result of which the wage structure causes restraint; also the gap between genders can be reduced in this way. Collective bargaining strongly influences overall wage equality, depending on the extent to which labour markets are regulated. In countries with high collective bargaining coverage, trade unions have more bargaining power at company or sectoral level, thus contributing to equal pay policies. Extension clauses in collective agreements, by which the same provisions apply to a greater number of companies and workers, also reduce overall wage inequality. A number of studies provide evidence that there is a strong relationship between trade union density, high collective bargaining coverage and lower income inequality.<sup>25</sup>

Collective wage agreements increase wages from the bottom of the wage structure and also have an impact on wage distribution. Multi-employer agreements extend this effect to other businesses and industries and in so doing, contribute to overall wage equality. In this connection, Professor Garrigues argued that the involvement of the social partners through social dialogue is considered to be an essential tool for both the design of equality policy in the workplace, and for tracking and monitoring its implementation and effectiveness. However, at the international and supranational level, it is insufficient to ensure that social dialogue on the equality of men and women in employment achieves the same degree of effectiveness and consistency in all countries.<sup>26</sup>

There is evidence that collective bargaining compresses the wage

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<sup>25</sup> Hayter S. Una globalización justa. La negociación colectiva puede poner freno a la creciente marejada de desigualdad de salarios e ingresos. *Boletín Internacional de Investigación sindical*. Vol. 1 no. 2, 2009

<sup>26</sup> Garrigues M. Amparo, *Gender equality plans as the contents of collective bargaining: general basis and Spanish experience. Soft-law strategies versus mandatory terms: an overview*, 2011

structure, and reduces the overall differences in wages, thus contributing to income equality. The weakening of these institutions is one of the factors contributing to greater inequality in a number of countries. In others, especially in the developing countries, the fact that these structures have not been sufficiently developed contributes to persistent inequality. In order to respond to the challenges of globalisation, support for the development of genuine collective bargaining should be a key objective on the labour market agenda.

Improving the quality of industrial relations institutions can provide an effective response to the challenges of competition. When competition is perceived as a resource for mobilisation rather than as a means to minimise labour costs, companies can seek cooperation with the workforce by improving efficiency and productivity. Depending on the context, different industrial relations institutions (such as quality circles and employee participation schemes) can give companies a way to encourage greater staff participation in production, and this participation may lead to greater efficiency. The mechanisms of collective bargaining can result in a move towards a more equal distribution of incomes.

From the macroeconomic perspective, higher wage levels can also boost aggregate demand and contribute to the expansion of formal employment. As a result, it is also possible that in case of the powerful collective bargaining institutions, wage distribution can generally improve.

### ***Collective bargaining in the European context***

The internationalisation of production and trade is increasingly impacting on national economies as industrialisation advances rapidly in the emerging economies. This process is driven by the emergence of global supply chains, in which the division of labour between operations in different parts of the world economy is constantly reviewed in accordance with the imperatives

of cost, flexibility and productivity.

The economic integration of markets has been accompanied by social measures, aimed *inter alia* at giving workers new rights of representation and voice at the transnational level, as well as protection against the impact of rationalization and restructuring. The emergence of transnational collective bargaining in the European Union has accelerated as a result of the creation of institutions within the framework of the social dimension and autonomous measures taken by employers and unions.

Although employers' associations participate in the cross-border exchange of information at sectoral level, the primary focus for employers is the multinational level, through mechanisms that control costs, with cross-border comparisons, applying the results in local and national negotiations. For their part, the unions have focused primarily on the sectoral level through initiatives designed to encourage the exchange of information across borders and, ultimately, to coordinate programmes and negotiations.

In this regard, the Trade Union and Labour Relations Secretary, James Salvi, argued that it is important for the European Trade Union Confederation to go beyond what has been achieved so far, in order to solve problems that involve different union cultures of the Member States and become an instrument capable of providing effective answers to real problems. For example, in Spain, they have tried to adopt social welfare policies that have so far not worked as trade unionism and the transnational model is still under construction, with significant disadvantages when compared with the northern European countries.

The European trade unions have taken initiatives to coordinate programmes and compare the results of national negotiations at sectoral level, for fear that the intensification of competition due to economic integration in the EU will cause a "race to the bottom" with declining wages and working conditions. The goal is "to unite national trade systems to limit

competition around national wage changes and the cost of labour”.<sup>27</sup> The initiatives involve establishing national and local negotiations, by creating cross-border databases on collective bargaining as a means to exchange information and, even more ambitiously, to coordinate bargaining objectives. The databases allow for monitoring the results of negotiations, supported by the review process between the parties. These are unilateral initiatives: the employers’ associations tend to oppose any bargaining coordination at European level, reflecting their preference for a greater decentralisation of collective bargaining to the enterprise level.<sup>28</sup>

The continuous exchange of information makes possible the construction of a database that enables the monitoring of agreements and an evaluation of progress on non-wage issues.

In this connection, Dr. Rymkevich noted that among the initiatives at the European level, the one undertaken by the European Federation of Metalworking, is the most advanced, serving as a model for others. The key features are: the coordination of wage bargaining (by which wage agreements should be consistent with the cost of living increase, and a proportion of the increase in productivity), an electronic database to record and monitor agreements, and a review of bargaining outcomes. By linking sectoral initiatives at European level, the European Trade Union Confederation (ETUC) has adopted its own guidelines in Europe, that also require agreements on wages that are equal to the cost of living increase, plus a share of productivity gains to compensate for the declining share of wages in gross domestic product (GDP). The implementation of these initiatives for the co-ordination of negotiations has given rise to a number

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<sup>27</sup> Howell, D., 1993: *Technological change and the demand for skills in the 1980s: Does skill mismatch explain the growth of low earnings?* Working paper n. 101, The New School (New York).

<sup>28</sup> Marginson P., La dimensión transnacional de la negociación colectiva en un contexto Europeo. *Boletín Internacional de Investigación Sindical*. Vol. 1, n. 2. 2009

of contextual and structural problems.<sup>29</sup>

These initiatives take place in a context in which the absence of adequate social provisions accompanying the creation of a single European market gives rise to a continuous conflict of interests among the unions in different countries. More important is the question of how to combine the systems in which negotiations are carried out with a single employer, as in the case of the UK and some Member States of Central and Eastern Europe, with coordination at the sectoral level based on multi-employer bargaining.

Although EWCs were formally constituted in accordance with the directive of the European works councils in 1994, as structures for information and consultation of workers at transnational level, a minority of EWCs among more than 800 establishments have been mobilised, either by management or union representatives and workers, or both, to set up a forum for local negotiations at headquarters in various European countries or transnational negotiations with the adoption of joint declarations and framework agreements.

Prof. Bengt Furåker, from the Department of Sociology at the University of Gothenburg (Sweden), outlined the following problems in developing transnational collective bargaining:

- the fact that collective bargaining mainly takes place within the framework of the nation state;
- the lack of interest among employers;
- differences in union density and union resources;
- cross-national differences in economic development and labour market regulation;
- the issue of “regime shopping”.

Joint statements and transnational framework agreements are adopted by multinational companies and the representatives of the workforce in a small

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but growing number of companies. There is both a European and a global dimension: EWCs play an important role in the agreements that apply across Europe, while international trade union federations play a crucial role in the conclusion of international framework agreements. The bargaining agent representing the workers is not the same in the two types of transnational agreements. In the case of European Works Councils, and the numerous agreements signed by international employers' associations, the agent is the body elected by all the workers, not just trade union members. Moreover, almost all international framework agreements were negotiated by trade unions.

Agreements adopted by European Works Councils address various topics, including the following:

- corporate social responsibility, also dealt with by international framework agreements, covering fundamental labour rights and fundamental rules of work;
- the elaboration of key principles governing company and human resources policies;
- company restructuring and its effects, giving rise to two subcategories of agreements: statements of general principles on how the restructuring should be managed, and framework agreements addressing specific restructuring decisions and providing a framework for local negotiations;
- specific aspects of enterprise policy, including health and safety, data protection, privacy and electronic communication.

Some agreements cover more than one of these issues. There are three main reasons leading the social partners to conclude EWC agreements. The first arises from the concern of management to ensure legitimacy for pan-European human resource policies in the company. Multinational companies tend to adopt common cross-border policies in their European human resources management and may benefit from the additional

legitimacy that can come from obtaining consent or approval of the employee representatives through a formal agreement. The second, which is also primarily concerned with management, is related to the minimisation of transaction costs, potentially giving rise to local negotiations to be held in parallel. The adoption of a common framework for negotiations with employee representatives in the EWC can significantly reduce the time and resources required for local negotiations, each seeking a solution to a common problem. Transaction costs are significant in cross-border restructuring, and securing an agreement on a set of principles for managing restructuring at European level can facilitate and coordinate the local negotiations that need to take place. The common framework can also deal with new issues on the negotiating agenda, that are not currently addressed in local agreements, including privacy and electronic communication. The third reason is the case in which management is under pressure to enter into negotiations at European level due to the workers coordinating local negotiations and, if necessary, cross-border action. This factor has been more evident in the negotiations at European level in the automotive industry around the restructuring.<sup>30</sup>

There is considerable variation in the extent to which European agreements are intended to be mandatory in their application to the signatory parties, and for management and employee representatives in various business operations in Europe. At one end of the regulatory spectrum are the non-binding agreements that lay down general principles of human resources management policy, but that do not require specific measures. At the other end of the spectrum are the binding agreements that require the signatories to take specific measures, such as the establishment of a health and safety monitoring unit, but that do not entail the adoption of measures by management and employee representatives locally. The

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<sup>30</sup> Ibid. Marginson P. 2009

provisions of certain agreements on core labour standards are indicative, while others are mandatory. As a result there is considerable variation in the nature and extent of monitoring and implementation measures.<sup>31</sup>

### ***Concluding Remarks***

Different research findings indicate that with regard to collective bargaining and compressed wage structures, when the institutions of collective wage bargaining are more comprehensive, collective bargaining reduces the overall difference between wages, leading to greater income equality. Despite growing concern about the increasing inequality of income and wages, little attention has been paid to the repercussions of globalisation on collective wage bargaining in different countries, or to the role played by globalisation in reducing the prospects of a more equitable distribution of earnings. Globalisation has weakened the bargaining power of unions and given rise to the need for greater adaptability in collective bargaining on wages. Some developed countries, concerned about the performance of their labour markets and the competitiveness of their companies, have adopted policies to deregulate labour markets and promote the decentralisation of collective bargaining. The result has been an erosion of these institutions but a move towards increased efficiency.

The continued integration of European markets, together with the new configuration of the production of goods and services on a European basis, has transformed the context of collective bargaining, which traditionally was limited to the national framework, leading to considerable cross-border interdependence. The restructuring of local and national negotiations has prompted cross-border activities and initiatives by employers' organisations and individual employer action, particularly on the

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<sup>31</sup> Hammer, N., 2005: International Framework Agreements, *Transfer*, vol.11, n. 4, 511-530.

part of multinational corporations, and unions and other structures representing the workforce aimed at developing transnational collective bargaining.

The initiatives of both employers and the unions have led to the emergence of a transnational dimension of collective bargaining, in an attempt to influence the outcomes of local and national collective bargaining. Among employers, local negotiations in multinational enterprises occupy a dominant position, while among the unions, sectoral negotiations will continue to be the main focus in much of Western Europe. The primary objective of these initiatives seems to be to strengthen the position of one side compared to the other. Given the important business decisions of multinationals, that are increasingly cross-border in scope and effects, and based on comparisons of costs and performance in a number of countries, the number of cases of cross-border mobilisation border by unions appears to be on the increase.

The adoption of joint statements and framework agreements by European Works Councils, along with the growing number of international framework agreements signed (in large part by European multinationals), demonstrates an increase in bilateral activity. Arguably, the key issue relating to future global developments is the ability of international framework agreements to ensure implementation of the measures agreed on in all the operations of multinationals companies and their suppliers. At the European level, they are likely to focus on the capacity of the unions in a context of continuous cross-border restructuring to secure a greater number of binding agreements in European Works Councils. Transnational collective bargaining in Europe may be on the threshold of becoming more like national collective bargaining.

## **CHAPTER 3**

### **From European social dialogue to transnational industrial relations? A case study**

**Tartu, Estonia, 21 October 2011**

**Michela Cavallini and Tony Royle**

The Third International Workshop “*From European social dialogue to transnational industrial relations? A case study*” was held in cooperation with the Faculty of Law of Tartu University on 21 October 2011 and was hosted at the Conference Room of the Estonian Supreme Court. The Workshop consisted of a morning and an afternoon session. The presentation of a preliminary report on the case study of the UniCredit European Works Council (hereinafter UEWC) was the focus of the event, that was characterised by continuity with the previous activities undertaken within the project. First, at the March Conference the limits and prospects for transnational action were analysed, as shown in the papers reviewed above, with specific attention to the role of the social partners, the shortcomings of the European social model, and an overview of the theoretical, legal and practical frameworks for transnational industrial relations and collective bargaining. Subsequently, at the workshop held in Castellón (Spain), issues relating to institutions and comparative and supranational employment regulation were dealt with, in particular by Prof. Geoffrey Wood, who pointed out that a growing transnational coordination of practices is taking place in multinational corporations, and they must therefore be considered key actors, alongside the national institutions. The case study thus represented an important means to gain a closer understanding of the impact of transnational companies on employment relations.

The workshop also served to provide a solid foundation for further discussion during the following seminar, held in Sofia, in a country where multinational subsidiaries rather than headquarters are located. In this case, the social partners outlined their position with a specific focus on information and consultation.

In his opening remarks the Dean of the Faculty, Professor Jaan Ginter, underlined the high value of the project in its capacity to attract scholars and researchers from different countries and also to promote a multidisciplinary discussion on employment-related topics that cannot be adequately analysed only in labour law perspective.

In his presentation, Dr Iacopo Senatori, researcher at the Marco Biagi Foundation, discussed “Transnational action in the light of Europe 2020: From European Works Councils to collective bargaining?”. An introduction was given about the countries involved, the conceptual framework and the goals of the project. The aim of the presentation was mainly that to outline a conceptual framework for the case study, also referring to the policy framework of Europe 2020.

An evaluation of the involvement of the social partners at European level was then made, underlining the fact that a neo-liberal approach seemed to be prevalent, focusing on a quantitative rather than a qualitative assessment of employment policies, productivity and growth policies, and that little room was allocated to the social partners in the Europe 2020 “flagship initiatives”. Moreover, financial goals seemed to prevail over those related to social cohesion and employment, and the intergovernmental nature of European governance became evident. This leads to criticism of the absence of a clear vision on how to achieve the stated goals and on the development of ambivalent actions. In the light of this scenario, the legal basis for a stronger involvement of the social partners was examined. Reference was made to the Charter of Fundamental Rights of the European Union, that acquired a legally binding effect after the entry into force of the

Lisbon Treaty and that safeguards the right of workers to collective action and bargaining at the appropriate levels. Reference was also made to provisions of the Treaty on the Functioning of the European Union (TFEU) contained in Article 151, the role of the European Union (EU) and its member states in promoting employment, the improvement of living and working conditions and social dialogue; Article 152 on the recognition and support for the role of social partners at European level; Article 154 on the Commission's task of promoting consultation of social partners and Article 155 on the possibility for the social partners to reach agreements and other contractual relations as outcomes of their dialogue at EU level. Secondary legislation of the EU also plays a role: in this case, reference was made to the impact of the directive on European Works Councils (EWCs, Directive 94/45/CE), which led to the establishment of more than 900 EWCs in multinational companies (MNCs), covering around 40% of multinationals falling under its scope.

However, in the view of the speaker, the European Court of Justice (ECJ) case law (especially the *Laval* quartet) does not seem to promote a legal framework safeguarding workers' rights. In the *Laval* quartet, economic freedoms seem to prevail over social rights.

Subsidiarity can play a role in the development of "reflexive governance", in the sense of "stimulating second-order effects on the part of actors rather than traditional forms of command and control",<sup>32</sup> that may be seen as a kind of "privatisation of governance". The strong protection of collective rights seems to be of secondary importance in a model of governance that is now more focused on deregulation.

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<sup>32</sup> Arrowsmith, J. and Marginson, P. (2006) The European Cross-border Dimension to Collective Bargaining in Multinational Companies, *European Journal of Industrial Relations*, 12 (3), 245-266, esp. 262-263.

The emergence of a Euro-company level<sup>33</sup> is seen as one of the most significant issues in the context of reflexive governance. In this framework the role of EWCs goes beyond their statutory role as information and consultation bodies, generating arm's-length bargaining, that takes place when "employers and union representatives do not negotiate face-to-face at European level, but the outcomes of sector and enterprise bargaining are increasingly anticipated and co-ordinated across countries".<sup>34</sup> This kind of informal coordination can nonetheless coexist with more formal ways of coordinating bargaining.

On the management side, the development of enterprise/organisation based employment systems requires coordination tools according to different contexts, where coercive comparisons can be made in order to build a common corporate culture and gain competitive advantages.

A procedural rather than a normative framework therefore seems to exist, in which the implementation of policies requires the involvement of local levels where social partners are active and cooperate. In the presentation it was argued that the issues and topics dealt with, such as training, anticipation of change and restructuring, are consistent with the Europe 2020 Strategy. Solutions obviously depend on the particular sector, the economic context and the existence of genuinely transnational issues. Negative outcomes are possible, for example when zero-sum outcomes prevail over win-win solutions in bargaining processes. There are problems, such as the identity, constituency and mandate of the collective actors involved, and the enforcement of the agreements that can be reached. Nonetheless, this seems to be a "second best" strategy if compared to shortcomings in public regulation, since the autonomous action of social partners at transnational level and in the framework of subsidiarity might be

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<sup>33</sup> Marginson, P. (2000) The Eurocompany and Euro Industrial Relations, *European Journal of Industrial Relations*, 6(1), 9-34

<sup>34</sup> Marginson, P. and Sisson, K. (1998) European Collective Bargaining: A Virtual Prospect? *Journal of Common Market Studies*, 36 (4), 505–28, esp. 505.

a step forward in preventing the resurgence of local interests and balancing the low level of commitment of the EU in the social field, that is undoubtedly influenced by the current economic recession.

The next presentation at the workshop examined the preliminary findings of the case study of the UniCredit EWC (hereinafter UEWC). The research was carried out by Michela Cavallini, of the International Doctoral School in Labour Relations of Marco Biagi Foundation (University of Modena and Reggio Emilia) and Prof. Tony Royle, from the J.E. Cairnes School of Business and Economics at the National University of Ireland (Galway), who was also academic coordinator of this project phase. The case study represented an important means for adding value to the project, as it was based on original in-depth research on transnational industrial relations and agreements and was considered to be a means for stimulating the dissemination and exchange of information on a practical experience, with a specific focus on the cultural and technical reasons and incentives for the establishment of such a transnational body.

Since the UEWC is also considered by the European Commission as a model and an example of good practice not only for the financial sector, a deeper understanding of its functioning might also be of interest for other actors involved and or/interested in EWC activities. This complex case provided a substantial amount of information on the actors involved and on the working mechanisms, since the company, that was one of the project partners, facilitated access to interviews and company documents. The workshop thus provided an excellent opportunity, also from a methodological point of view, for obtaining feedback from the representatives of the parties involved in the research and for monitoring the information collected. One representative of the company was invited for this purpose, together with one from the EWC, and drafts of the report were sent to them before the workshop for comments and suggestions.

The research focused on different levels of analysis, including the context of employment relations at company and sector level, with the aim of carrying out a preliminary assessment of the factors influencing the development of the Group's EWC as a transnational actor.

Information was gathered through semi-structured interviews held in July and August 2011 with representatives of the UniCredit top management in Industrial Relations and Human Resources (including the management's permanent contact with the EWC), some of the Italian members of the UEWC, and one of the two external experts from UNI Finance. Other documents and secondary sources were examined and the company and trade union websites also provided useful preliminary information. The data served to cast light on the views of management and EWC members from the home country. At this preliminary stage, the views of foreign members and other managers were not sought.

UniCredit is one of the leading players in the European banking sector. It can trace its origins back to the liberalisation of the Italian banking sector in the early 1990s and subsequent mergers and acquisitions not only in Italy and in Central and Eastern Europe, but also in non-EU countries. The Group employs around 160,000 people and operates about 9,500 branches, of which 4,400 are in Italy, while the others are in Central and Eastern Europe and outside the EU.

The UEWC was established in January 2007 on the basis of Article 6 of EC Directive 94/45 and of the relevant Italian legislation pursuant to the agreement signed between the Group's Central Management and a Special Negotiating Body (SNB) representing employees, with the assistance of experts from UNI Europa Finance (the European Industry Federation for trade unions in the sector and part of the regional substructure of the global union, UNI Global), the Chairman of the Banking Committee for European Social Affairs of the European Banking Federation (EBF) and the Italian

Banking Association (ABI), all of them directly or indirectly involved in social dialogue at European level.

Interviews with management showed their pluralistic approach and commitment towards Industrial Relations (IR) and Social Dialogue (SD) and the significant role of Italian trade unions when the EWC was established. Different attitudes on the part of employee representatives towards this body for information and consultation at transnational level also appeared to affect the commitment of members of the Special Negotiating Body (SNB). However, the final agreement went beyond the basic provisions of the Directive. It was amended in 2011, when thresholds for representation were modified. The UEWC members appointed a Select Committee, which represents a contact point with management. In its first mandate (2007-2011) the Select Committee consisted of seven members from Italy, Germany, Austria and Poland. The UEWC holds two plenary meetings every year, and three or four additional meetings can be held with the Select Committee, depending on the projects to be discussed. General meetings are always held in Milan, where the Group headquarters are located.

Given the high number of members of the UEWC, the role of the Select Committee is arguably crucial in allowing the whole information and consultation process within the EWC to function effectively. As only EWC and Select Committee members from Italy have been interviewed so far, a full assessment of the role of the Select Committee is not yet feasible. The main challenge arising in the future seems to be that of striking a balance between effectiveness and centralisation on the one hand and the active and democratic inclusion of all the UEWC members on the other.

Article 1 par. 5 of the Agreement provides a definition of the terms “information” and “consultation” that are consistent with those contained in Directive 94/45. The topics of information and consultation reflect those provided by the Directive’s subsidiary requirements, with, in addition,

topics relating to Corporate Social Responsibility (CSR) such as training, learning and professional development; health and safety, equal opportunities and non-discrimination. One critical issue relates to the timeliness of information: while information of good quality is provided, it is often given after a decision has been taken by the Board. Another issue concerns the meaning and implementation of “consultation” as “dialogue and exchange of opinions between Central Management and the EWC”, since the EWC is not able to influence decisions taken by the management. At the same time, the UEWC has no collective bargaining powers, and the national and territorial trade unions are those entitled to exercise bargaining rights.

One of the main features of the UEWC is the strong presence of trade unions, especially among the Italian members, as they represent about 75% of the Group’s employees in Italy. Moreover, all the Select Committee members are affiliated to unions that are also members of UNI Finance. At the same time, the UEWC members are characterised by different roles, national origins, cultures and identities and, as a result, the development of a common identity constitutes a future challenge.

The industrial relations context in the Italian banking sector and at UniCredit was also seen as relevant for understanding the role of Italian members but also, to some extent, the broader functioning of the UEWC, as the strength of trade unions and the system of employee representation in the country where the parent company is located has an impact on the effectiveness of the EWC. Until recent years the banking sector in Italy was protected from external competition, and the favourable circumstances helped trade unions to negotiate good conditions and maintain close contact with the workforce.

Two joint declarations were drafted during the first mandate (2007-2011) on “Equal opportunities and non discrimination” and “Training, learning and professional development” (2008). They can be considered as

the outcome of transnational interaction and, to some extent, of the “virtual collective bargaining” at Euro-company level mentioned above.

The Italian trade unions also took the initiative to sign a Global Framework Agreement (GFA), with the involvement of UNI Europa Finance. The platform approved by the EWC plenary, for which the Select Committee obtained a mandate for negotiation in 2009, is still under discussion.

The research showed how the UEWC plays more than a symbolic role.<sup>35</sup> It can provide information with added value and develop its own projects, although this function is still at an embryonic stage. The Italian national system and the Italian employee representatives seem to play a strong role in determining the scope and type of activities of this EWC.

An analytical overview of the case study was provided by the next speaker, Dr Volker Telljohann, researcher at the Institute for Economic and Social Research (IRES Emilia Romagna, Bologna, Italy), who argued that the UEWC, the first in the Italian banking sector, can be considered as a case of good practice, for all the reasons above mentioned (e.g. number of meetings per year, inclusion of non-EU countries, drafting of joint declarations, discussion on a Global Framework Agreement). A contradiction remains in relation to how the consultation process is carried out, in the sense that it takes place once a decision has already been taken. A more proactive role of the EWC in this domain would therefore be desirable in the future.

Dr Telljohann remarked that it is a fast growing EWC that combines the dominance of home country representatives with the participation of members from different cultures. In this sense, the time factor is of the utmost importance in determining mutual learning and trust building among

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<sup>35</sup> Platzer, H. W. (2009) Approaching and theorising European Works Councils, in Hertwig, M., Pries, L., Rampeltshammer, L. (eds) *European Works Councils in Complementary Perspectives*, Brussels: ETUI.

its members, thus making the UEWC a truly European actor. Sustainability in the medium and long term can be assured only if a stronger European identity is developed.

The speaker also examined the reasons behind the support for the EWC provided by UniCredit management, underlining the role of the EWC in building corporate identity and consensus, in the reduction of transaction costs and as part of the company CSR policy. For the trade unions, on the one hand the EWC represented a tool for the development of transnational industrial relations within the company and at European level. On the other hand, the EWC also played an important role as an actor with an impact on national contexts (e.g. in the implementation of joint declarations and in its influence on national restructuring processes). This case also fits in the broader context of the role of EWCs in signing European and International (or Global) Framework Agreements (EFAs and GFAs/IFAs). This trend raised concerns on the part of the European Industry Federations (EIFs), as in most cases EWCs do not have bargaining power and are not representative of the workforce as a whole. In some cases, those agreements had the counterproductive effect of undermining national employment. No legal framework exists for the enforcement of these transnational agreements.

The European Industry Federations also developed their own strategies on how to deal with transnational restructuring processes, trying to impose a limit on the bargaining role of national trade unions. In practice, as already mentioned, this rarely happens, since every framework agreement must be renegotiated at national level. This is a further reason for not considering the perspective of a legal framework for transnational bargaining to be realistic. The “second best” solution relying on the autonomous activity of social partners at transnational level, as examined in the presentation by Dr Senatori, therefore seems more feasible.

As regards the UEWC, it is to be hoped that in future it might be effective in anticipating change, with specific reference to restructuring processes. This can only be possible if the subjective dimension of EWC identity evolves towards deeper integration, thus helping to overcome the limits of excessive centralisation and of ‘top down’ approaches through more and better coordination among the different actors involved, both at national and European/international levels, and in particular with those from the new Member States. This can only be achieved if all the parties involved are aware of the fact that the potential for these bodies depends on their capacity to provide solutions that are better than those that can be found at national level (e.g. in the case of restructuring processes at transnational level). The issue of international solidarity would then become a challenge.

A response to the issues outlined in the presentations was then given by Elena Foggiato, Head of International Industrial Relations at UniCredit, who focused on the issue of information and consultation. She described the rules that the company follows in this field. In the view of UniCredit, every time a project, communication or initiative is put forward involving employees in more than one country, it is a matter falling under the scope of the EWC. Every Human Resource (HR) or other department within the company is aware of this. Furthermore, if a project concerns only one country, but is of strategic relevance for the Group as a whole, the information is shared with the EWC. This was the case with the Foreign Network Reorganization and the One4C project leading to the reorganization of commercial banks in Italy.

Another controversial matter is the timeliness of information, in other words, deciding the right time for giving information to the EWC, and how information can be given on matters that have not been yet settled, since in a big company with numerous divisions such as UniCredit the decision-making process is complex.

When information is given after a project has been formally approved, this does not mean that all the details of its implementation have been determined, so there is still room for interaction and discussion with the EWC. Moreover, in countries with a *Mitbestimmung* or co-determination system (Germany and Austria) information must be disclosed following stricter rules on the involvement of employee representation. Once information is provided, information and negotiation processes are started also at local level, but at the same time a constant channel of communication is kept open with the EWC. For bigger projects, meetings with the Select Committee can also be held.

Decision-making power rests in any case with the company, and the EWC is not considered as a forum for collective bargaining. Members of the EWC can make observations on proposed projects, request information and put forward suggestions on implementation. An example may be given to illustrate this process. The Foreign Network Reorganization plan envisaged the closure of branches in Paris, Athens and Madrid, but the EWC did not agree and asked the company to reconsider its position. There was a meeting of the Select Committee with the participation of project managers from HR and other departments. Suggestions from members of the Select Committee were gathered with an undertaking that feedback would be given on the final decision. The company did not change the decision *per se*, but welcomed suggestions on how to implement it (e.g. time frame, people involved).

As a public company, UniCredit is also subject to strict regulations on the disclosure of information. One other important issue pointed out by the speaker is that all the actors concerned should be informed at the same time. For this reason, the Select Committee is considered the entry point and is responsible for the transmission of information to the EWC and, from there, to the employees. Information is also circulated within the company, but the EWC is always the first to receive it.

In the speaker's view, the EWC was a learning experience also for the company, because it was not easy to raise awareness among all the actors involved of the importance and role of such a body, since different cultures coexist within the Group, as well as within the EWC. For the company, the goal was to raise awareness about the EWC among the HR professionals in all the countries, also in those where works councils and/or trade unions are already present. A five-day training course was held for this purpose, for the benefit of junior HR officers from each country involved in the EWC. Participants showed an increased interest towards the EWC and this could be seen as a sign of an ongoing cultural and learning process within the company.

One of the biggest challenges, in the speaker's view, is that of planning the next four-year mandate, since planning future goals might be more difficult than setting up the EWC itself. One of the challenges arising in this connection is that of involving smaller countries and balancing the interests of the different members. Joint presentations on national contexts of industrial relations and preparatory meetings seem to have had a role in this. The speaker once again took up the issue of the development of a European identity, stating that when conflicts arise, the Group's interest in the medium and long term is deemed as a priority and thus prevails over local concerns.

National problems such as wages are not discussed on the EWC, so the national and local levels for information, consultation and negotiation are safeguarded from interference.

A further issue on which Elena Foggiato outlined the company's view was the Global Framework Agreement (GFA). She remarked how UniCredit favoured a consultation process leading to concrete outcomes such as the two Joint Declarations, to which the company attributes an added value both for management and employees. In her view, in the case of the GFA it is important to have a clear idea about the contents of the

agreement, since some issues have already been dealt with by other documents (the Company Integrity Charter, Joint Declarations), and to understand how a GFA can add value to the company's policies. A second controversial issue is the question of who should be entitled to sign the GFA for the employees. In the company's view, it is the EWC, while some members of the EWC advocate the involvement of UNI Finance, which, in the view of UniCredit, would undermine the role of the EWC as a body representing the Group's employees. Moreover, in the view of UniCredit, the scope for the application of the GFA should include the countries represented on the EWC.

The afternoon session focused on the Estonian context of industrial relations and recent developments. In her presentation the HR Director of Swedbank Estonia, Signe Kaurson, outlined how the EWC is perceived both from the headquarters and externally. Swedbank is present in Sweden and in the three Baltic States. The Swedbank EWC was established in 2007 and it consists of 10 members. Regular meetings are held once a year (with top management) and twice a year (between smaller groups of members and the Group HR function). The speaker pointed out two paradoxes: first, in countries with active unions, the EWC is not perceived as giving added value; second, where collective actors are not present, EWC members feel they do not have any support. In the employer's view, more activism is expected from EWC members in raising topics of interest and a more transnational approach should be taken, rather than one based on local concerns.

The national context of industrial relations was then presented from the point of view of the Estonian Trade Union Confederation, represented by the Confederal Secretary, Kaja Toomsalu. The figures presented showed that employment is concentrated in micro and small enterprises (with more than 90% of the workforce employed in firms with less than 10 employees). In the collective bargaining system, negotiation is carried out mainly

between companies and unions, while some negotiations also take place at sectoral and intersectoral level. Employers are represented by the Estonian Employers' Confederation, which is also a member of BusinessEurope. Workers are represented by the Estonian Trade Union Confederation (EAKL, the largest in Estonia, with members in industry, transport, health care and the public sector in general) and by the Estonian Employees' Unions' Confederation (TALO, with members in culture, media, agriculture, sports, science, technology and healthcare sectors), that are both members of the European Trade Union Confederation (ETUC). Both confederations were also involved in tripartite negotiations with employers and Government, and concluded their first agreement in 1992. Subsequent agreements were concluded on income policy, employee participation and social protection, but this practice ended in 2000. EAKL was involved in bipartite negotiations with the employers' confederation, leading to the adoption of a common position on the principles underlying the new Individual Employment Contract Act (2003) and to an agreement on principles of minimum wage increases for 2002-2008 (2001). They also led negotiations for agreements with the Government on civil service salaries. However, the global recession has had a negative impact on the conclusion of further agreements. At sectoral level, agreements between the social partners and collective agreements have been reached. At company level, in about 30% of enterprises there is a collective agreement and in more than 80% of them there is discussion with employees about working conditions. EAKL also has some members on EWCs, especially in the metal, services, retail and postal sectors.

Some deficiencies in the current situation were also underlined. On the part of the State, there seems to be a lack of interest in, or even opposition to, the regular involvement of the social partners. Employers, for their part, support trends towards lower standards, while unions suffer from

low levels of membership and the consequent lack of ability to take action. A debate followed the presentation, with questions from the public.

A qualitative study on employers' views in the Estonian private sector was then presented by Krista Jaakson, research fellow at the Faculty of Economics of Tartu University. The aim of the study was to map the social partners' views and positions in Estonian industrial relations. More than 100 in-depth interviews were held, both individually and in focus groups, between November 2010 and April 2011. Employers, trade union representatives, non-union representatives and members from employers' associations, trade unions and union confederations were involved. An assessment was made of the advantages and disadvantages of collective agreements, their provisions, their scope of application, amendment procedures and sanctions in the case of failure of bargaining, the period for which they would remain in force, and the monitoring of implementation. The results presented showed the employers' views of the advantages and disadvantages of collective agreements, which are finely balanced, but what was more striking was that many respondents did not have an opinion about the issue. This outcome could be explained, in the speaker's view, by the low percentage of private companies where collective bargaining takes place and the even lower percentage of companies with collective agreements in force. A debate with questions and answers about the research findings then followed.

The role of collective agreements in Estonia was further explored by Kadi Pärnits, PhD Student at the Faculty of Law of Tartu University. Some data on the Estonian context were presented: 40% of employees work in enterprises with up to 50 people, and about 32% of employees are covered by collective agreements concluded at enterprise level. Although sectoral agreements are in place, company-level agreements are the most significant for the regulation of employment relations. The speaker then argued that greater emphasis should be given to the role of sectoral agreements.

From a legal point of view, the Estonian Collective Agreements Act, adopted in 1993, has remained largely unchanged by subsequent legislation (Trade Union Act, 2000; Employee Representation Act, 2006; Employment Contract Act, 2009). The 2006 Act has had an impact on the conclusion of collective agreements at enterprise level by employees' representatives not belonging to trade unions and elected directly by the employees. The coverage of collective agreements is expanded to all workers and not limited to those who are members of trade unions.

Collective agreements regulate issues such as wages, working conditions, health and safety, vocational training and relations between the parties. Although the Collective Agreements Act does not explicitly mention other issues, such as work-life balance, equal treatment, participation, information and consultation of employees, most collective agreements deal with these issues as well, while in the speaker's view gender equality is still not adequately addressed by the trade unions, as shown by the existence of a 30% gender wage gap.

Collective agreements still play a modest role, reflecting the weakness of the social partners and institutional mechanisms for social dialogue, but also, in the view of the speaker, a lack of understanding of the need to achieve a social consensus.

An increase in the role of collective agreements at sectoral and central level, combined with elements of flexibility, could provide a higher level of protection in employment, striking a balance between competitiveness, the creation and preservation of jobs, and respect for the fundamental rights of workers. Once again, the recession has had a role in this process, exerting downward pressure on salaries, giving rise to higher unemployment and determining a decline in Gross Domestic Product (GDP).

The role of collective agreements in the protection of workers and in regulating flexibility in employment relations has thus been disregarded in

recent labour law reforms, and it seems that the legislator has focused more on legal provisions and individual employment contracts for the regulation of work. The outcome is that the protection of fundamental rights and minimum conditions is left to the bargaining power of the individual employee, without any form of support or framework.

The final presentation, by Seili Suder, an official at the Ministry of Social Affairs, focused on the process of collective labour law reform. The existing employment law entered into force at the beginning of the 1990s. It was inspired by the Soviet system, so it was not suited to the new context in which large enterprises were replaced by smaller ones, and new forms of employment were introduced (agency work, telework). In addition it did not comply with the principles of private law (mostly private autonomy). It also laid down too many restrictions and gave rise to a huge bureaucratic and administrative burden and too many obligations for employers, and as a result a more flexible law was needed.

At the level of individual regulation, the new Employment Contracts Act entered into force in 2009. It was drafted in cooperation with the social partners and consolidated existing provisions on employment contracts, wages, holidays and working and rest time. At the level of collective regulation, labour law consists of two main acts that came into force in 1993: the Collective Bargaining Act and the Collective Labour Dispute Resolution Act (regulating procedural matters, strikes and lockout). As mentioned above, most collective agreements are concluded at company level (there are about 150 active agreements), and in transport and healthcare there are also sectoral agreements. The limited number of collective agreements depends on different factors, such as a cultural stance that tends to rely on the provisions of law instead of leaving room for autonomous bargaining; the low trade union density (8%), and the perception on the part of the employers of collective agreements as a

potential source of trouble rather than a useful instrument, but also a more general lack of knowledge and support for social dialogue on both sides.

As a result, the law in force presents some critical aspects that need to be dealt with by the reform. These issues are mainly related to: the appointment and competence of conciliators (impartial experts involved in labour dispute resolution); the obligation to continue applying conditions laid down by collective agreements after they have expired, that was one reason for the employers' opposition to collective agreements; the legality of strikes (in practice, quite limited), the cooling off period, the prohibition of strikes in the public sector (that fails to comply with ILO regulations and the European Social Charter) and the legal status of political and sympathy strikes.

A reform of collective labour law is to be negotiated with the social partners, and in this connection in 2011 a number of studies and analyses of documents drafted by experts were made, while in 2012 consultation with the social partners is to take place. The studies were aimed at analysing collective labour relations in terms of existing practices, and the opinions and observations of the social partners, and focused both on the public and private sector. Five matters came under scrutiny: employee involvement; collective agreements and bargaining; collective labour disputes and conciliation; cooling off periods, strikes and lockouts; employee representation. What emerged, once again, was a lack of knowledge and experience of these practices and a low level of support for social dialogue on both sides.

In connection with dispute resolution, an analysis of documents drafted by conciliators was carried out in order to collect information on how many applications are made, how many of them have been processed, the duration of the process and the involvement of experts. Expert opinions are to be obtained about proposals for dispute resolution by means of the conciliation process and about the right to strike in the public services. After

those opinions have been collected, a discussion with the social partners is to be launched. The other participants from Italy, Bulgaria and Russia also put forward their views on the topics presented during the final debate.

The added value of involving both academics from different disciplines (economics, sociology, management and labour law) and practitioners from trade unions and enterprises (especially from Human Resources and Industrial Relations) was evident in the course of discussions and helped to build mutual understanding of the controversial and conflicting issues of employment relations.

The increasingly transnational coordination of company activities is now an established fact and, as demonstrated by the case study presented, EWCs can be an important instrument for both management and workers. In a context where the action of the European Union in the social field is often hindered by the interests of individual Member States, such ‘bottom up’ initiatives are important instruments that in a perspective of complementarity and subsidiarity can help improve working conditions and social dialogue, that are among the objectives laid down by the TFEU, and give effectiveness to the fundamental rights of workers to information and consultation at company level, as laid down by the EU Charter for Fundamental Rights (Article 27). At the same time, EWCs do not always manage to strike the right balance between the economic freedoms of enterprises and workers’ social rights.

The activities of the UEWC presented also show the potential for EWCs to contribute to the objectives of the Europe 2020 Strategy, in particular in the fields of training, vocational development and equal opportunities, which are included in the Strategy in order to promote higher labour productivity, competitiveness and increased labour market participation, especially for women, who represent a high percentage of the workforce at UniCredit, especially in Central and Eastern Europe. On the other hand, the economic scenario in which EWCs are now operating is not

a favourable one and their role in the achievement of the Strategy objectives, although significant for the reasons outlined above, cannot offset the deficiencies in national policies that “fall short of providing a clear response to the important macro-economic challenges and growth bottlenecks” and the “insufficient attention to structural reforms that could boost growth in the medium and long run”.<sup>36</sup> At the same time, the involvement of the social partners at company level, as demonstrated by the case study, depends on the company, while the involvement of social actors at national level should enhance support for the policies adopted.

The outcomes of transnational action also depend on the sectors, companies and specific contexts in which changes are taking place. For this reason, there is no ‘one-size-fits-all’ solution, but in some respects the UEWC represents a case of good practice. Clearly, more time is needed for a full assessment of this relatively new institution, especially with regard to its role in anticipating change and in transnational restructuring processes in connection with the Europe 2020 Strategy.

The seminar provided a good opportunity for the exchange of information on internal developments in the Estonian system. In spite of the differences with Italy, the two countries show certain similarities. For example, in both countries a high percentage of the workforce is employed in micro and small enterprises. As a result, the participants found themselves on common ground and mutually benefited from the discussion.

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<sup>36</sup> COM (2011) 11 final, Annexe 1. Annual growth survey. Advancing the European Union’s comprehensive response to the crisis. Annex 1: Progress report on Europe 2020, 11.

## **CHAPTER 4**

### **Role of Industrial Relations in Europe 2020: from Local Concerns to Transnational Action**

**Sofia, Bulgaria, 24-25 November 2011**

The Fourth International Workshop on the “Role of Industrial Relations in Europe 2020: from Local Concerns to Transnational Action” was held in cooperation with the Confederation of Independent Trade Unions in Bulgaria (CITUB) on 24-25 November 2012. The main aim of this meeting was to bring together the various strands of research and to draw some conclusions. The academic part of the conference was dedicated to the transnationalisation of industrial relations and the Bulgarian experience.

In the first session, one of the project coordinators, Dr Olga Rymkevich, presented the project to the audience and outlined the work carried out so far. In particular she pointed out that achieving the objectives of the new Europe 2020 Strategy requires more effective interaction between the national and European industrial relations systems. There are several points that need to be borne in mind in this process. On the one hand, the provisions regulating European economic freedoms and competition are still not supported by a common European framework on labour markets and social policies. It is doubtful whether such a framework can be established in the near future. Also in the national industrial relations systems, encompassing employers’ associations and trade union organisations, with regard to collective bargaining, the implementation of fundamental rights at work, and information and consultation rights, there are many differences reflecting national traditions and the lack of a clear European framework. The influence of the EU in such areas, especially

regarding the new Member States, is still weak.<sup>37</sup> On the other hand, in industrial relations there are slow but significant developments in terms of transnational action, and they are increasingly important at the European level. This is the case with industrial relations in multinational companies, transnational collective bargaining, information and consultation rights and European works councils, the coordination of collective bargaining, and European social dialogue. These trends may lead to a decline in the importance of national industrial relations systems, giving rise to the need for closer co-ordination among the social partners at the European and global level.

In connection with the “green” revolution and the increasing importance of energy conservation and environmental protection, there are likely to be winners and losers among the various groups of workers and regions/countries. Closer co-ordination between national and European level of industrial relations and social dialogue should be achieved.

Finally, the implementation of policies in support of Europe 2020 will lead to more flexibility, increasing the importance of small and micro companies, flexible teams, flexible contracts, work functions and working time, changing in the career developments and jobs. Also the improvement of labour protection in a climate of greater economic freedom would appear to be necessary, including protection of the right to work, promotion of life-long learning, work-life balance, career development and mobility.

After the introductory remarks, the director of the Institute for Social and Trade Union Research (CITUB), Prof. Lyuben Tomev, outlined the main issues in the sphere of industrial relations that Bulgaria has to face in the context of the global economic crisis. In particular, he stressed that the

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<sup>37</sup> Industrial Relations in Europe 2008. Report of the European Commission (Brussels: European Commission, DG Employment, Social Affairs and Equal Opportunities. September 2008), 8 <<http://ec.europa.eu/social/main>>

construction of the institutional framework of industrial relations is still work in progress, and the internationalisation of industrial relations has slowed down. As for problems at national level, the lack of consensus between the State, the social partners, the employers' associations and the trade unions on fundamental issues like minimum wage determination, has played a crucial role in undermining national industrial relations. The weak involvement or lack of involvement of the social partners in information and consultation on other important issues such as increasing the retirement age was also stressed. The speaker concluded that the global crisis represents a serious obstacle for the development of international social dialogue, while the lack of consensus at national level aggravates this problem.

The trade union representatives from UniCredit underlined the importance of the EWC in information and consultation. At the same time they expressed their appreciation for the openness of the central management to discussions on such crucial matters as remuneration levels in relation to the preparation of the global framework agreement. It was underlined that significant differences in wages exist among the countries where the subsidiaries of the group are located, normally based on national standards. The importance of the joint declarations on equal opportunities and career and skills development was also underlined.

In the perspective of the interdisciplinary approach applied to this project, Prof. Geoffrey Wood outlined some theoretical considerations on the role of institutions in the context of the global financial crisis, comparing different degrees of state involvement in the various Member States. In addressing the origins of the crisis and possible scenarios after it, he presented an interesting historical excursus. In particular, he explained how the balance of power at national and regional level has changed since the energy transition from coal to oil, and how these changes have evolved since then, concluding that the reasons for the current crisis are not only of

an economic nature but depend mainly on political factors and the balance of power among the stakeholders.

With reference once again to Bulgarian industrial relations, Dr. Ekaterina Ribarova and the other Bulgarian speakers provided a detailed account of the current situation in Bulgaria before and after the EU accession. Undoubtedly, as a new Member State of the European Union, Bulgaria highlights the difficulties that new Member States face in building European social dialogue. These difficulties are intrinsic to almost all the countries sharing a Communist past. These countries had to undergo a complex process of adaptation to the market economy as an essential precondition for the establishment of a European model of industrial relations. In the light of this process, Dr Ribarova provided an in-depth account of present-day Bulgarian industrial relations, examining the preconditions and incentives for the development of transnational industrial relations. She underlined, in particular, that the influence of the European framework and experience of the Member States in general is positive, but that the disadvantages arising from the weak national traditions and low income levels are still visible. The social partners need to make radical changes in values, policies, structures and approaches. The skills of the social partner representatives still do not correspond to the challenges of the twenty-first century (technological skills and competences, languages, communication skills and others). Participation in European social dialogue is still in the early stages and this is more evident among the employers than among the trade unions.

Dr Ribarova reflected on the fact that the institutions of industrial relations and social dialogue are well established, but generally they are tripartite structures that leave little room for manoeuvre for bipartite negotiations. The reason for this lies in the fact that the negotiations with the European Union started at a late stage in the case of Bulgaria, and in the 1990s the influence of the International Labour Organization was dominant

in the rethinking of industrial relations. Most citizens still have high expectations of the State with regard to social policies. The implementation of the EU Directives concerning labour and social affairs was discussed by the government, the social partners and the other civil society organisations from the beginning of negotiations for joining the EU in 2000. Currently the best ways to implement the *acquis communautaire* in labour law and social policy areas, as well as the prospects for new directives, are under discussion with the social partners.

Bipartite negotiation has focused for a long time only on collective bargaining, but since 2001-2002 more active consultations at a national inter-sectoral level were launched and many controversial issues such as the reform of labour law, the level of insurance contributions, wage indexing and others have emerged. The results of such consultations have been used by governments in the last decade to implement changes in legislation and policies. At the same time new requirements for minimum insurance levels have been implemented by the government, and the social partners at sectoral level have had to discuss them and eventually agree on the levels. Some of the provisions are included in sectoral collective agreements, while others result in separate agreements. Currently, in many sectors bipartite consultations are in progress. At the end of 2010, the national inter-sectoral social partners agreed on two new issues: employment regulations for domestic workers and teleworkers. National agreements with the government were then signed and they are intended to promote the employment of domestic and teleworkers and to safeguard their employment rights.

At the same time there are many problems relating to the social partners and social dialogue at national level, especially in certain sectors. According to the data from the survey carried out in 2010 for the purposes of the CITUB project, “Security through law, flexibility via collective bargaining”, that is supported by the operational programme of “Human

resources” for Bulgaria (2007-2013), funded by the European Social Fund, as well as according to other similar surveys, there are several important trends.

In particular, the structure of the social partner organisations (sectoral trade unions and employers’ associations) has not changed since the early 1990s. As a result, there are many dual structures (mainly among the employers) and problems in social dialogue and industrial relations. In many cases, these structures do not correspond to the structures of their European counterparts. However, structural changes could be made only with the support of the social partner organisations and their members, as membership is voluntary and decisions are taken by their governing bodies. Most of the social partner representatives prefer to maintain the *status quo*, and responses to emerging challenges are slow. There is resistance to possible changes and innovations, especially to those of an institutional/structural character. Trade union density is higher in manufacturing/mines/infrastructure and in the public sector compared to the others. The lowest trade union density is in private services and new sectors of the economy. The density of employers’ associations is also higher in manufacturing and mines, and lower in the service sector. In the public sector, employers’ associations exist in most cases only formally.<sup>38</sup>

Collective bargaining takes place in many sectors, in some industries both at sectoral and branch level. Another level is the company level while in some public-sector companies collective bargaining can take place also at the level of the municipality. The results of many surveys, including the one mentioned above, show wide variation in the scope and subject of collective

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<sup>38</sup> E. Ribarova, T.Mihailova, N.Nedev, E.Markova. Main trends in social dialogue and collective bargaining in the sectors. Working paper (in Bulgarian). *Project “Security through law, flexibility via collective bargaining”* (Sofia: Confederation of the Independent Trade Unions in Bulgaria. Operational programme “Human resources” of the National Statistical Framework for Bulgaria 2007-2013, 2010), 104-112

bargaining and agreements for various sectors and different levels. In some sectors (mainly manufacturing) bargaining has become a tradition and has produced results, even if in some cases the agreements have been “frozen” due to the impact of the crisis. The most important objective in the period 2008-2010 was to preserve jobs, even when a reduction of working time and wages was necessary. Some of the most important issues, like vocational qualifications, life-long training, skills improvement, work flexibility, new working time regimes, and atypical employment have been dealt with in collective agreements, but this is the case more often at company level and in the subsidiaries of multinationals. “Green” restructuring and green jobs do not receive special attention in industrial relations and collective bargaining, with the exception of some subsidiaries of multinational companies. At the same time “green companies” and renewable energy companies are new and often there are no trade unions and industrial relations there. Although in Bulgarian labour law there has been a provision for the extension of collective agreements since 2001, this provision was implemented practically for first time in 2010. Many employers’ associations, individual employers and even some trade unions resist the extension of collective agreements, making the implementation of certain policies by means of collective bargaining more difficult.

New forms of representation in the workplace, especially with regard to information and consultation, have been implemented in less than 10% of Bulgarian companies, though all the EU directives were transposed into the labour law in 2006. The situation is better in the subsidiaries of multinational companies (MNCs), where members of the European Works Councils can be elected. At the same time the results of the survey carried out for the purposes of the project on “Improvement of the Process of Workplace Information and Consultation for Better Employee and Worker Representation in Europe” show some positive trends. In cases where information and consultations provisions are duly implemented and

respected, problems such as vocational qualifications and training, the redesign of jobs, flexible working time and productivity issues are solved more effectively.<sup>39</sup>

Corporate Social Responsibility (CSR) is also a new phenomenon for Bulgaria and it is implemented mainly by some large companies, especially MNCs. In some cases CSR is also dealt with in industrial relations, either by collective bargaining, or by consultations.

One of the most important problems in Bulgarian industrial relations is the weak involvement of the social partners in European social dialogue. Trade unions and employers' associations are not involved in coordinating collective bargaining due to the low level of wages in Bulgaria. Trade unions at sectoral level have joined the European sectoral federations, but their participation in European social dialogue is still symbolic. Many sectoral employers' associations are not even members of the European bodies, and their interests are represented by their national inter-sectoral associations.

It is self-evident that some of the objectives of the Europe 2020 strategy require active participation on the part of the social partners and restructuring of industrial relations in Bulgaria. It is important to translate the new issues on the language of industrial relations and to define the particular problems at company and sectoral level. The other aim is to involve social partners in formulating policies regarding the objectives of Europe 2020. However, this is a long process that requires major involvement and cooperation among the social partners and the government.

Despite the fact that Bulgaria has been a member of the EU since 2007, it still does not participate in an effective way in the formulation of

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<sup>39</sup> See *“Improvement of the Process of Workplace Information and Consultation for a Better Employee and Worker Representation in Europe”*(INFORMIA) (.Ref. No: Grant Agreement VS/2009/0486. of the European Commission. DG Employment, Social Affairs and Equal Opportunities), 2010.<[www.informiaproject.org](http://www.informiaproject.org). 2011

common EU policies and the adoption of joint decisions. It still does not show any clear national position or make any effective attempt to defend its interests. This applies also to labour market policies and social policy. The main reasons for this are related to the fact that Bulgaria and Romania became Member States only in 2007. In addition, mention should be made of the problems that still exist in the implementing the programmes and projects funded by the EU structural and cohesion funds in both these countries, but especially in Bulgaria. However, it is certain that the increasing of activity of the government and non-governmental representatives at EU level and the reformulation of their opinions, especially with regard to the labour market, labour standards and social policy could help the country to improve its standing in the EU and in Europe as a whole.

## *Conclusions*

Processes of globalisation and integration have given rise to profound changes over the last decades in all economic sectors. The current recession highlights the deficiencies of the national economic and industrial relations systems, making evident the need for urgent responses to these new challenges. This report examined developments in five countries representing a wide variety of industrial relations systems, ranging from models with a high level of institutionalisation to models based on voluntary approaches and models where social dialogue is merely symbolic. The main research outcomes confirm that the different national systems produced different responses to the crises according to their national traditions, but almost all demonstrated a reluctance to change their national industrial relations systems to a significant extent, and they have therefore not undergone any substantial changes. The social partners at national level found common ground in their resistance to the possible changes. The consequence is their weak involvement in the internalisation processes arising from European social dialogue.

Two apparently contradictory tendencies have evolved. On the one hand, a tendency towards the decentralisation of industrial relations at national level, and on the other, a tendency towards centralisation at supranational level. This is especially evident in the case of MNCs. The main objective and advantage of centralisation in industrial relations is to reduce transaction costs in order to improve efficiency. Another advantage of negotiations at central level is that they can facilitate the introduction of internationally coordinated policies across the entire group. However, these centralisation/decentralisation policies must be well balanced, otherwise they risk undermining industrial democracy and may result in the exclusion

from information and consultation procedures of less powerful employee representatives at plant level.

One of the major challenges for the future of industrial relations is the need for more proactive strategies that anticipate change. In this connection, transnational framework agreements might be a useful instrument for establishing transnational dialogue structures to facilitate the introduction of international policies, for example, in the areas of diversity management, skills development, and performance appraisal. From this point of view, it is important to encourage the effective exchange of good practices at international level in order to raise awareness about the benefits of the transnational coordination of industrial relations among the national stakeholders and encourage them to cooperate in this direction, thus ensuring closer integration and co-ordination between the national and international/European level of industrial relations. In this connection transnational framework agreements could play crucial role. From this point of view, UniCredit has demonstrated a proactive approach in adopting and successfully implementing through the EWC such policies as signing joint declarations and ensuring information and consultation at all levels and in all subsidiaries. This practice can be taken as a virtuous example of establishing transnational dialogue as a means of introducing international policies in a range of areas such as diversity management, performance appraisal and vocational training.