

Social Europe guide

Volume 2

Social Dialogue

Social Dialogue



Social Europe



European Commission

Social Europe guide
Volume 2

Social Dialogue

European Commission

Directorate-General for Employment, Social Affairs and Inclusion

Manuscript completed in January 2012

This guide was written by Mark Carley and Commission staff.
Neither the European Commission nor any person acting on behalf of the Commission may be held responsible for use of any information contained in this publication.

For any use or reproduction of photos which are not under European Union copyright, permission must be sought directly from the copyright holder(s).

Europe Direct is a service to help you
find answers to your questions about
the European Union

Freephone number (*):
00 800 6 7 8 9 10 11

(*) Certain mobile telephone operators do not allow access
to 00 800 numbers or these calls may be billed.

More information on the European Union is available on the Internet (<http://europa.eu>).
Cataloguing data as well as an abstract can be found at the end of this publication.

Luxembourg: Publications Office of the European Union, 2012

ISBN 978-92-79-21309-0

ISSN 1977-2343

doi:10.2767/448

© European Union, 2012

Reproduction is authorised provided the source is acknowledged.

Printed in Luxembourg

PRINTED ON ELEMENTAL CHLORINE-FREE BLEACHED PAPER (ECF)

Foreword

László Andor

Commissioner for Employment,
Social Affairs and Inclusion



Evidence over the past five decades of European integration has shown that EU-level social dialogue plays an essential role in advancing the European social model, delivering benefits for employers, workers, and for the economy and society as a whole. In October 2011, we celebrated the 20th anniversary of the social partners' agreement, which was later enshrined in the Maastricht Treaty. It established procedures for close involvement of management and labour in shaping and implementing EU employment and social policies.

Social dialogue has played a crucial role in building the Single Market. Today it has an irreplaceable role in strengthening economic governance and building an economic union. It is vital that the EU and Member States invest in strengthening social dialogue at both EU and national levels, if we are to prevent divisions between capital and labour, a fall in Europe's growth and employment potential, greater macroeconomic imbalances and growing economic exclusion of certain territories or groups in the context of the current economic crisis. We need cross-industry and sectoral dialogue, as well as dialogue within individual enterprises. Social dialogue is autonomous, but the social partners have an important responsibility to address the key structural challenges facing Europe in the years ahead.

The experience of the crisis so far has shown how social dialogue can help to alleviate the effects of economic downturn, provide stability and resilience, and preserve or even improve competitiveness. At national level especially, social partnership has helped to tackle the crisis in many countries. As Chapter 5 shows, Member States with strong social dialogue mechanisms have weathered the storm best. National cross-industry negotiations have developed in response to the crisis in a number of countries with little tradition of such dialogue.

The road to Europe's recovery consists of mutually reinforcing actions for economic modernisation, environmental improvement and social investment, as set out in the Europe 2020 Strategy. EU-level social dialogue institutions, such as the Tripartite Social Summit, and the close involvement of social partners in preparing and implementing National Reform Programmes are essential in ensuring that fiscal consolidation is carried out in a way that strengthens Europe's economic performance. Social dialogue also helps to ensure that reforms of labour markets and social protection systems are fair and effective, and that Europe succeeds in its

transition to a resource-efficient, low-carbon economy. Some urgent responses to the economic crisis, notably in countries with macroeconomic stabilisation programmes, may frustrate existing forms of social dialogue and collective bargaining. But if Europe is to maintain healthy economic and social structures, and address longer term challenges, it must strive to emerge from the crisis with more, not less, social dialogue. We will not reach the Europe 2020 targets, nor will Europe be able to maintain the participatory character of its economy and society, without strong dialogue between management and labour, and the institutional capacity to make it work at all levels.

The reality, however, is that social dialogue remains weak in many of the Member States that joined the EU in 2004 and 2007. There is also a tendency, in some cases, to erode, downgrade or even eliminate tripartite structures. Undermining collective bargaining and other social rights may form part of implicit 'social dumping' strategies. Such approaches are bad for Europe and bad for the countries concerned, and they are economically and socially unsustainable. Trust between the participants of social dialogue may also be limited due to underdeveloped institutional capacity. At national level, this has in some cases translated into failures to develop joint bi- or tripartite responses to the crisis. At EU level, such weaknesses can reduce the legitimacy of economic governance processes and undermine policy implementation. This is why the Commission provides support for social partner capacity-building through the European Social Fund and through various transnational projects. I encourage social partners and governments to take up this assistance and to work together to foster a stronger, more robust dialogue across the EU.

Contents

Foreword.....	3
Chapter 1 – An introduction to social dialogue	7
Interview with the cross-industry social partners	24
Chapter 2 – A brief institutional history of EU-level social dialogue.....	33
Message from the EESC	43
Chapter 3 – How EU-level social dialogue works.....	45
Voice from the European Parliament	56
Chapter 4 – What has been achieved in EU-level social dialogue? ...	59
Message from the ILO.....	76
Chapter 5 – Social dialogue and the crisis.....	79
Chapter 6 – Future developments and challenges The social partners and Europe 2020	87
Interview with the Council Presidency	92
Annexes	99
Further information	103
Glossary of terms	104





Chapter 1

An introduction to social dialogue



What is social dialogue?

In the Member States of the EU, organisations representing employers and workers together play an important role, influencing developments at the workplace, and in the wider economy and society. The nature and extent of this role varies considerably from country to country (see p. 16). It includes setting pay and employment conditions through collective bargaining at various levels, expressing opinions to governments and other public authorities through consultations (thereby helping to shape law and policy in areas such as employment), jointly managing or overseeing areas such as social security, training or health and safety, or simply discussing issues of mutual interest. These processes can be formal or informal, and can be limited to workers' and employers' organisations or can also include the government and other public authorities.

Organisations representing employers and workers — employers' associations and trade unions — are known in many Member States as the 'social partners'. The

interactions between them, and with the public authorities, are often referred to as 'social dialogue'. This term is sometimes used more widely to include dialogue at individual workplaces, whereby employers inform, consult and negotiate with their employees and their representatives on employment and business-related issues.

The International Labour Organisation (ILO) defines social dialogue as 'all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy'. The dialogue can 'exist as a tripartite process, with the government as an official party to the dialogue or it may consist of bipartite relations only between labour and management (or trade unions and employers' organisations), with or without indirect government involvement'.

Social dialogue has developed at the level of the European Union, reflecting (and linked to) its widespread practice in

the Member States. Forms of social dialogue were present at the inception of the European Communities, and today social dialogue is enshrined in the Treaty on the Functioning of the European Union (Articles 151-155, see Chapter 2 below) and features across many areas of EU policy and action. This publication describes this dialogue, its background, development, operation and achievements, and the challenges it faces today.

The basics of EU-level social dialogue

In the EU context, social dialogue involves a set of processes and arrangements whereby European-level organisations, representing employers and workers, conduct discussions and negotiations, undertake other joint work, and are jointly involved in

EU decision- and policy-making. The dialogue takes two basic forms and occurs at two main levels. Its form can be either:

- *bipartite*, involving only the social partners (organisations representing employers and workers); or
- *tripartite*, involving both the social partners and the EU institutions.

The two main levels of dialogue are:

- *cross-industry*, which means a dialogue whose scope covers the whole EU economy and labour market, and all sectors; and
- *sectoral*, covering one specific industry across the EU.

The organisations that participate in the dialogue vary depending on the level. At cross-industry level (see Box 1), trade unions are principally represented by the

Box 1. The cross-industry social partners

The main cross-industry trade union organisation involved in EU-level social dialogue is the European Trade Union Confederation (ETUC). The ETUC's membership is made up of 83 national union confederations from 36 countries, plus 12 European trade union federations, which bring together national unions operating in particular sectors. In total, the ETUC represents 60 million union members across Europe.

Also operating under the ETUC's auspices is the Council of European Professional and Managerial Staff (Eurocadres), which represents over five million managerial and professional

employees belonging to ETUC-affiliated unions. Outside the ETUC, the European Confederation of Executives and Managerial Staff (CEC) brings together 17 national organisations representing managers and professionals from 15 countries, plus nine federations grouping national managerial/professional unions in particular sectors. CEC represents 1.5 million members. The European Commission consults both Eurocadres and CEC as cross-industry social partners representing specific categories of workers, and the two organisations have established a liaison committee through which they participate in EU-level cross-industry negotiations, within the ETUC delegation.

There are two general cross-industry social partners on the employer side:

- BusinessEurope has as members 41 national employers' and industrial confederations from 35 European countries. It represents 20 million companies of all sizes, mainly in the private sector.
- The European Centre of Employers and Enterprises Providing Public Services (CEEP) represents individual enterprises and employers' associations in public services — both organisations with full or partial public ownership and those carrying out activities of general economic interest, whatever their legal ownership/status. It has 19 national sections, made up of both individual employers and associations, and four affiliated European-level sectoral organisations. CEEP's members employ 30% of the EU workforce.

The European Association of Craft, Small and Medium-sized Enterprises (UEAPME) is consulted by the Commission as a cross-industry organisation representing certain categories of undertakings. UEAPME brings together 40 national cross-industry federations for SMEs and craft businesses from 26 EU Member States, plus associate members including national SME organisations from outside the EU and 29 European-level sectoral SME organisations. UEAPME represents over 12 million enterprises with 55 million employees. It participates with BusinessEurope and CEEP in the employers' group for dialogue and negotiations with the ETUC.

European Trade Union Confederation (ETUC), and employers by BusinessEurope (broadly, private sector employers), CEEP (public services employers) and UEAPME (small and medium-sized enterprises). At sector level (see Box 2), the social partners are organisations bringing together national unions and employers' associations operating in a particular industry across Europe.

Bipartite social dialogue — the main focus of this publication — occurs at both cross-industry and

sector levels. **Social dialogue committees**, supported by the European Commission, have been set up at cross-industry level and in 40 sectors. In these committees, the social partners can, on their own initiative, discuss matters of mutual concern, carry out joint work, and negotiate agreements and other joint texts. Further, the Commission consults the cross-industry and sectoral social partners on a wide range of issues, and the partners can develop joint responses through the social dialogue committees.

Box 2. The sectoral social partners

A total of 62 European-level employers' bodies, representing national employers' associations in a particular industry, are involved in EU sectoral social dialogue committees, and are consulted by the European Commission on social and employment policy issues. These organisations range considerably in size and scope, with some representing all or most of the large sectors (such as metalworking/engineering or local/regional government) and others representing relatively small subsectors (such as aviation handling or potash production). Sectoral dialogue committees often include two or more employers' organisations.

By contrast, only 17 trade union organisations participate in the EU-level sectoral dialogue and are formally consulted by the Commission. Most of these are European trade union federations affiliated to the ETUC (see Box 1), such as the European Metalworkers' Federation or the European Federation of Public Service Unions. While the sectoral union organisations vary in size, they tend to be broader in scope than the EU-level sectoral employers' bodies, and often cover more than one sector, with several of them sitting on more than one sectoral committee.

When it comes to matters of employment and social policy, the Commission has a duty to consult the social partners on possible EU action (such as legislation), giving them the opportunity to respond individually or jointly and, if they wish, to negotiate agreements on the issues in question, which may in certain circumstances be given legal force by an EU directive.

Tripartite dialogue occurs mainly at cross-industry level. It involves various institutions and processes that enable the social partners to discuss matters with the EU institutions, and contribute to debate and policy in areas such as the economy and employment (see Box 4).

The EU also has a role in promoting European bipartite social dialogue in individual companies. Legislation enables European Works Councils (EWCs) to be established in multinational companies operating in the EU, providing a forum for management and employee representatives to hold a dialogue on transnational topics (see Box 3).

Why do we need social dialogue at EU level?

The countries of Europe have developed a distinctive way of organising their societies and economies, which has become

known as the ‘European social model’. There is general acceptance that this model at least includes sustained economic growth, a high and rising standard of living, high levels of employment, high-quality education, comprehensive welfare and social protection, low levels of inequality and high levels of solidarity, and — crucially in the current context — an important role for representatives of workers and employers, and the dialogue between them. Social dialogue is considered to be integral to the European social model.

A shared belief in this model was reflected in the European Communities, formed by six Member States in the 1950s, and the treaties establishing the Communities. As the Communities grew and became more integrated over the next 50 years, and eventually became the European Union, the European social model’s values became ever more firmly enshrined in successive treaties. Social dialogue is one of these values. Because social dialogue plays an important role in the Member States (especially in the founding Member States and those that joined up until the end of the 20th century), it was included in the institutional and policy-making machinery and processes that these countries constructed at European level.

Social dialogue forms part of the European social model, because it reflects the democratic principle (included in Article 11 of the Treaty on European Union — TEU) that representative associations should be able to express their views to be consulted by, and hold dialogue with, the public authorities, as well as the view that it is fair that workers and employers should be involved in decision-making on issues that

affect them closely. The Charter of Fundamental Rights of the EU also enshrines the right of workers to information and consultation within the undertaking (Article 27) and the right of collective bargaining and action (Article 28). However, the European social model also includes social dialogue because this dialogue brings concrete benefits, and not just for the organisations involved. The social part-

Box 3. European Works Councils

The main forums for European-level social dialogue within companies are European Works Councils (EWCs). Based on an EU Directive adopted in 1994 (and revised in 2009), EWCs can be set up — following negotiations initiated by employees or by management — in multinational companies with at least 1 000 employees within the 30 European Economic Area member states and at least 150 employees in each of at least two member states.

By April 2011, according to figures from the European Trade Union Institute (ETUI), 917 multinationals had EWCs. Some 18 000 employee representatives sit on EWCs, representing the interests of around 18 million workers.

The central purpose of EWCs is to provide employees with information and consultation on transnational matters. Details of the operation and role of EWCs are agreed individually in each multinational concerned, but generally they bring together central management and employee representatives from across Europe at least once a year for a dialogue on the company's performance and prospects, and matters such as employment, restructuring and human resources policies. Where important events occur between regular meetings, such as site closures or major redundancies, management

must usually inform and consult the EWC. In some EWCs, information and consultation is more ongoing, often via a smaller select committee.

While the EWCs' main role under the Directive is as a forum for information and consultation, dialogue has developed further in some cases, and management and employee representatives have negotiated on European-level matters. In more than 60 EWCs, agreements have been signed on topics such as restructuring, corporate social responsibility, equality, and health and safety.

Research indicates that, besides enhancing communication among employee representatives from different countries, and between these representatives and central management, EWCs can have a positive impact on improving decision-making and employee understanding of management decisions, increasing trust, building a Europe-wide corporate culture, and anticipating and managing change.

Since 2004, enterprises operating in more than one Member State have had the option of setting up as, or transforming themselves into, a European Company (Societas Europaea, or SE) based on EU rather than national law. A Directive stipulates the particular arrangements for employee involvement in SEs. The details are negotiated in each SE, but involvement basically entails transnational information and consultation through an EWC-type body, as well as board-level employee participation where this form of participation was applied in the company or companies that founded the SE. (Statutory board-level employee representation exists at national level in many Member States).

According to the ETUI, over 800 SEs had been registered by June 2011. Many had no operations or employees, and existed mainly on paper, but in the more substantial SEs, over 70 employee involvement agreements had been signed. All provide for information and consultation through an EWC-type body, while 34 also stipulate board-level participation. This EU-level representation of employees on multinational company boards is the SEs' main contribution to social dialogue.

ners have unrivalled knowledge and experience of the realities of the employment and social situation 'on the ground', and consulting and listening to them can therefore improve governance in this area. Furthermore, the social partners are uniquely well placed to address work-related issues — such as employment and working conditions, working time, equality, health and safety, and training — through the dialogue and negotiation processes that characterise their relationship. By reaching agreements, they can achieve compromises and balance their interests in a way that legislation often cannot.

The benefits of social dialogue have long been widely recognised — if to varying degrees — in the Member States. As the European economy and labour market have become more integrated, and the EU has developed an enhanced employment and social policy role, the EU institutions and Member States have increasingly taken the view that similar benefits can

be achieved through social dialogue at European level.

Social dialogue and the 'acquis communautaire'

The accumulated body of EU law and obligations is known as the '*acquis communautaire*'. It comprises all the EU's treaties, legislation, declarations, resolutions, international agreements, European Court of Justice rulings and so on. When new countries want to join the EU, they must accept and apply the *acquis*.

Social dialogue forms part of the *acquis communautaire*, because it is promoted by the Treaty and given a specific role in the EU's decision-making process (see Box 9). New Member States must therefore have in place social dialogue structures and activities, and social partners able to play an effective role in the EU-level dialogue. They must also take into account social dialogue when incorporating the *acquis* into their national provisions.

Box 4. Tripartite cross-industry dialogue

This publication focuses mainly on bipartite dialogue between the social partners. However, tripartite dialogue — also referred to as concertation — among the social partners and the EU institutions also plays an important role. It goes

back to a series of 'tripartite conferences' on employment issues held in the 1970s, which brought together European-level social partners, the Commission and national governments. In 1970, following a request from the social partners, the Council set up a Standing Committee on Employment (SCE) to ensure continuous dialogue, joint action and consultation on employment policy between the EU institutions, national governments and the social partners. The SCE served as a forum for tripartite dialogue until the early 2000s.

The social partners and the Council began debating outside the SCE during the 1990s. EU-level cross-industry partners started to meet ministers ahead of meetings of the Employment and Social Affairs Council, and from 1996 the partners met the 'troika' of current and future Council presidencies on the eve of European Councils.

Meanwhile, the SCEs' usefulness as a forum for consultation and dialogue was increasingly questioned by those involved. It was reformed and streamlined in 1999 and integrated into the European employment strategy. However, the social partners did not find that the reform led to significant improvements, and in 2001 called for the SCE to be replaced by a tripartite committee for concertation on the Lisbon growth and jobs strategy (as was already happening in practice). A Tripartite Social Summit was formally established by a Council Decision in 2003 (replacing the SCE), with the role of ensuring continuous dialogue among the Council, Commission and social partners on the Union's economic and social strategy (see Box 10).

Tripartite dialogue on specific EU policy areas also began in the mid-1990s, and today the cross-industry partners are involved in structured debate and consultations with the EU institutions and national governments, on both political and technical levels, over a range of issues. These include macro-economic affairs, employment policy, social protection and education/training. In 2011, the Commission organised the first 'tripartite social forum' to discuss matters relevant to its flagship 'Agenda for new skills and jobs' and, more generally, to the overall Europe 2020 strategy.

Social dialogue in the Member States

Social dialogue takes place in all the 27 EU Member States, though its importance varies considerably from country to country. It takes many forms, both bipartite and tripartite (or a combination of the two), and happens at cross-industry and sectoral level. The varying national patterns of dialogue reflect the countries' different histories and economic and political situations. A notable distinction is that in most western European countries, current forms of dialogue are largely based on those that developed after the Second World War, while in most central and eastern European Member States, they began to emerge after the political change of the late 1980s and early 1990s.

Here we provide a brief snapshot of the current situation across the EU. It should be noted, however, that dialogue arrangements and processes are rarely static, and have undergone continuous change in many countries over the years. For example, the current economic and financial crisis has stimulated social dialogue in some Member States, while causing existing arrangements to break down in others (see p. 79).

Bipartite cross-industry dialogue

Bipartite social dialogue between national cross-industry trade union and employers' confederations exists in many Member States, though it generally plays a more important role in industrial relations in the countries that joined the EU prior to 2004 than in the more recent Member States.

In the pre-2004 'EU-15' countries, dialogue in the form of regular cross-industry collective bargaining over pay rises and other general employment conditions — providing a framework for bargaining at sector and/or company levels — currently takes place only in Belgium, Greece and Spain, though it was normal practice until recently in Ireland and Finland, and featured in the past in other countries. In the new Member States, national bipartite agreements of this type have been signed mainly in Romania (though the practice ended in 2011) and, to some extent, Slovenia. In both Bulgaria and Hungary, the cross-industry social partners have (in some years) agreed non-binding general recommendations on pay rises.

Aside from regular national bargaining, cross-industry agreements on specific issues — such as training, employment, health

and safety, and bargaining rules — are a feature of industrial relations in a number of 'EU-15' countries, namely Belgium, Finland, France, Italy, Luxembourg, the Netherlands, Portugal, Spain and Sweden. In some cases, dialogue on these issues is initiated by the government, and the agreements reached can be given legal force (thus blurring the line between bipartite and tripartite dialogue). In particular circumstances, the cross-industry partners in other countries may take ad hoc joint action. For example, during the recent economic downturn, the partners in countries such as Austria, Denmark and Germany made joint recommendations on changes to short-time working schemes.

In Belgium and the Netherlands especially, bipartite cross-

industry dialogue is deeply embedded. Here, national structures bring unions and employers' organisations together for ongoing debate and to negotiate of agreements. They also act as advisory/consultative bodies to the government. France has a distinctive system whereby the social partners, jointly and largely autonomously, manage important areas such as social security, unemployment insurance and vocational training.

A particular form of highly autonomous bipartite cross-industry dialogue exists in Denmark and Sweden, and to some extent Finland. Here, national social partner organisations, rather than legislation, set many of the procedural 'rules of the game' for collective bargaining and other industrial relations issues through 'basic agreements'.



Bipartite agreements on specific themes are not widespread in the new Member States. The practice has developed in Bulgaria and, with regard to the national minimum wage, in Estonia, while there are a few examples in countries such as Cyprus and Latvia. Moreover, the current economic crisis prompted the first bipartite cross-industry agreement in Poland (see Box 14).

Since the 1990s, the growth of EU-level bipartite cross-industry

social dialogue has contributed to the development of national bipartite dialogue in some countries where it was previously largely unknown or limited. The need for the national social partners to implement EU-level 'autonomous' agreements (see Box 13) has led them, in a manner that is largely unprecedented, to engage in bipartite dialogue and reach novel forms of agreement or other joint approaches in countries such as Cyprus, Latvia and the UK.

Box 5. Recent examples of national bipartite cross-industry agreements

- The social partners represented on Belgium's bipartite National Labour Council reached an agreement in April 2009, obliging employers to introduce preventive drugs and alcohol policies. It sets out the principles for such policies and contains rules on matters such as testing employees, information, consultation and training.
- Between April and July 2011, French social partner organisations signed a series of four agreements on the employment of young people. The accords set out joint actions and commitments in areas such as promoting access to jobs, combined work and training schemes, work placements and housing.
- In 2010, the social partners in Spain (as has been their practice for most of the period since 2002) signed a cross-industry framework agreement providing guidelines for sector- and company-level bargaining. The main purpose of this three-year agreement is to protect and create jobs. It recommends moderate pay increases and a range of measures to avoid and mitigate job losses, promote open-ended employment, develop workforce flexibility, deal with restructuring and improve training.

Tripartite cross-industry dialogue

A majority of Member States (and almost all those that joined the EU in 2004 and 2007) have in place a formal national institution in which representatives of employers, trade unions and the government (and sometimes other interest groups) can discuss general economic and social matters. The role and powers of these bodies varies widely, but they usually have an advisory and consultative role on draft legislation and policies, especially in employment-related areas, and can sometimes provide a forum for the negotiation of agreements. In addition, many countries also have tripartite bodies that deal with specific issues, such as social security, employment, training, and health and safety. These can be standalone bodies or sub-units of the main national tripartite institution.

In the 'EU-15' countries, some form of national economic and social forum with social partner representation exists in Austria, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain, while Finland has a forum that deals only with economic issues. In the case of France, Greece, Ireland, Italy, Portugal and Spain, the

social partners are represented in these bodies alongside civil society in general. Luxembourg and Portugal also have more specific national tripartite concertation bodies. In Belgium, the national bipartite institutions play a consultative role vis-à-vis the government.

The borders between tripartite and bipartite dialogue can be hard to define exactly. For example, in France, the social partners have to be consulted by the government on any legislative or policy proposals relating to individual and collective employment relations, employment and vocational training. They are given a chance to negotiate cross-industry agreements on the issues at stake, and these provide a framework for any proposed legislation on the topic in question. The government draws up the agenda for this form of social dialogue.

Important national tripartite agreements have been signed during the past decade on issues such as overall economic and social development, social welfare, pensions, labour market/law reform, training, health and safety, pensions, minimum wages and responses to the economic crisis in the 'EU-15' countries such as Ireland, Italy, the Netherlands, Portugal and Spain.

Tripartism is arguably weakest or least visible in northern Europe. In Denmark, Finland and Sweden, there has traditionally been a clear divide between the areas of competence of the social partners, and of the public authorities. This has meant little scope for tripartite institutions and a key role for bipartite dialogue. However, there has been some blurring of the dividing line in recent years and an increasing tendency towards tripartite cooperation on particular issues in Denmark and Finland. Germany too has no formal national

tripartite (or bipartite) institutions, but mainly informal and/or ad hoc cooperation between the government and social partners. The UK has little in the way of national social dialogue.

Among the post-2004 Member States, tripartite dialogue is generally the main or only form of cross-industry dialogue. General economic and social forums with social partner representation exist in all these countries except Cyprus. In most cases, these are purely tripartite bodies without wider civil society

Box 6. Main national tripartite dialogue forums in the new Member States

- Bulgaria — Economic and Social Council (ESC) and National Council for Tripartite Cooperation (NCTC)
- Czech Republic — Council of Economic and Social Agreement (RHSD)
- Estonia — Economic and Social Council (SM)
- Hungary — Economic and Social Council (GSZT) and National Interest Reconciliation Council (OÉT) (soon to be merged as the National Economic and Social Council, NGTT)
- Latvia — National Tripartite Cooperation Council (NTSP)
- Lithuania — Tripartite Council (LRTT)
- Malta — Council for Economic and Social Development (MCESD)
- Poland — Tripartite Commission for Social and Economic Affairs (TK)
- Romania — Economic and Social Council (CES) and National Tripartite Council for Social Dialogue (CNTDS)
- Slovakia — Economic and Social Council (HSR)
- Slovenia — Economic and Social Council (ESSS)

representation, and they have a clear consultative and sometimes negotiating role, generally covering a wide range of issues. Bulgaria and Romania, which have economic and social forums that include civil society, have additional national tripartite social dialogue bodies. Hungary is currently merging a specific tripartite body with a wider forum also involving other interests, creating a structure without any government representation and with fewer powers than previously. Despite the prevalence of tripartite institutions, it seems that the social partners commonly complain that their views expressed during consultations are not sufficiently taken account of by government (though this is not restricted to the new Member States).

With regard to the outcomes of tripartite dialogue in the new Member States, agreements have been reached, since 2000, in countries such as Bulgaria, Estonia, Hungary, Latvia, Lithuania, Romania, Slovakia and Slovenia. These have covered matters such as: overall economic and social development in Bulgaria and Slovenia; dealing with the current economic crisis in Bulgaria, the Czech Republic, Estonia, Latvia and Lithuania; minimum wage increases in Romania; and general pay policy in Slovenia.

Sectoral dialogue

Bipartite sectoral social dialogue, in the form of regular collective bargaining between trade unions and employers' organisations over pay and conditions, is a key feature of industrial relations in many Member States, especially those in continental western Europe.

In the 'EU-15' countries, sectoral bargaining covers a high proportion of economic sectors in Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, the Netherlands, Portugal, Spain and Sweden, while it exists in a more limited form in Ireland, Luxembourg and the UK. The regular sectoral agreements reached sometimes set actual pay and conditions for employees in the sector concerned, but more typically (and increasingly) provide a minimum floor and a framework for subsequent bargaining at company level.

In Ireland, Luxembourg and the UK, collective bargaining is largely decentralised to the company level. Decentralisation is also now taking place in many of the 'EU-15' countries with high sectoral bargaining coverage, driven largely by employers' wishes for greater flexibility at company level in setting pay and conditions. While there are

instances of employers simply withdrawing from or ceasing to negotiate sectoral collective agreements, a more common approach has been to retain sectoral bargaining but allow greater scope for company-level flexibility. This has happened in countries such as Denmark, Germany, Italy, the Netherlands, Spain and Sweden.

In many of the new Member States (where overall bargaining coverage is generally lower than in the 'EU-15'), sectoral collective bargaining is limited to few industries or non-existent. It is relatively widespread only in Bulgaria, Romania, Slovakia and Slovenia, and also present to a lesser extent in Cyprus, the Czech Republic, Hungary and Poland. A common feature of industrial relations in the new

Member States is the frequent absence of sectoral bargaining, and of the broader sectoral dialogue linked to such bargaining, unlike the situation in many of the 'EU-15' countries.

Where sectoral bargaining exists in the new Member States, it can be subject to the same decentralising pressures that apply in the 'EU-15'. For example, some employers in the Czech Republic and Slovakia have in recent years withdrawn from or ceased negotiating sectoral agreements. On the other hand, sectoral bargaining has spread or started to emerge more recently in countries such as Bulgaria and Estonia.

Collective bargaining aside, bipartite dialogue occurs in at

© 123RF



least some sectors in countries such as Bulgaria, Hungary, Romania and Slovakia. In a number of cases, this reflects recent efforts that have been put into building bipartite sectoral dialogue in new Member States, and the capacity of the (frequently under-resourced and sometimes absent) sectoral social partners. For example, an EU-funded project has helped to set up sectoral social dialogue committees in many industries in Hungary.

International comparison

On average, nearly two out of three workers in the EU are covered by a collective agreement, compared to nearly one in five in Japan and one in eight in the US. While union membership has been declining in all these regions, the difference in Europe is that unions and employers often negotiate above the level of the firm, usually on a sectoral level, and sometimes even on a national (cross-sectoral) basis. This allows for the inclusion of a far greater number of employees, such as those working in small and medium-sized firms who would otherwise be unrepresented. It also helps to explain

the important role of social dialogue within the EU.

In combining its market-building agenda with a social agenda that includes emerging transnational industrial relations arrangements, the EU is ahead of other economic powers and regional integration organisations, and is sometimes seen as an example or model for the development of a regional social dialogue. Although collective bargaining and pay determination — core issues of industrial relations — remain nationally specific, the EU promotes social partnership and cooperation by setting minimum standards for employee representation in national and cross-border firms, by consulting EU-level social partners on policy initiatives and by enabling their EU-level agreements to be transposed into legislation. In respect of other regional organisations, Mercosur, South America's leading trading bloc, is probably nearest to the EU in its industrial set up and social policy ambitions, while the role of social dialogue in the NAFTA (North American Free Trade Agreement) and ASEAN (Association of Southeast Asian Nations) is weaker.



Interview with the cross-industry social partners

Philippe de Buck

Director General of BUSINESSEUROPE

Bernadette Ségol

General Secretary of the European Trade Union Confederation (ETUC)

European Social Dialogue really came into its own with the Amsterdam Treaty in 1997. What do you think are the main achievements of autonomous European social dialogue since then?

PdB: The European social dialogue achieved a lot both before and after the Amsterdam Treaty. The social partners have been at the forefront of innovation, such as the adoption of a framework of actions for lifelong learning in 2002, and the first agreement to be implemented by the social partners themselves: the agreement on telework. We have also made progress towards a more autonomous social dialogue as reflected in the adoption of multiannual work programmes since 2003. With these, we are able to structure and consolidate our dialogue and identify and act upon the main challenges facing European labour markets, rather than reacting to European Commission proposals. Finally, let me mention the joint analysis of labour markets in 2007, which was an important document, paving the way for the adoption of flexicurity principles at EU level.

BS: European bipartite social dialogue was effectively launched in 1985 by Jacques Delors, President of the Commission, by bringing together employers and union representatives. The years that followed were a formative period, with the partners having to get to know, understand and trust each other. The second phase, on the other hand, commencing with the signing of an agreement between the social partners on 31 October 1991 (appended to the Maastricht Treaty the same year, and then integrated into the Treaty of Amsterdam in 1997), launched the idea of the social partners opening up a negotiated regulatory space — dialogue took on a contractual dimension. After three framework agreements implemented by directives

(parental leave, part-time work and fixed-term contracts, between 1996 and 1999), the social partners then entered into a new generation of 'autonomous' agreements, which are implemented at national level by the social partners themselves (teleworking, stress at work, harassment/violence at work and inclusive labour markets, between 2002 and 2010). To these should be added two frameworks for action, other 'tools' of social dialogue (lifelong development of skills and qualifications, and gender equality; 2002 and 2005) and around sixty joint reports, recommendations, declarations, opinions and compilations of good practice. The fact that the social partners have been able to negotiate difficult matters at European level testifies to the development, both quantitative and qualitative, of the dialogue since 1985, and more especially since the early 1990s. This evaluation would be incomplete if we did not mention the remarkable development of the sectoral social dialogue, which now includes some forty committees which have produced over six hundred documents — even if this is less directly connected with the Treaty of Amsterdam.

How do you assess the current situation of autonomous European social dialogue?

PdB: The route taken so far has not been without bumps and social dialogue will certainly encounter difficulties again. Nevertheless, it has chalked up around sixty joint initiatives on important issues. It has indisputably shown that a constructive relationship has been created on which we need to build further.

The European social dialogue adds value to the national social dialogues: by putting new issues on the national agenda (e.g. telework, stress), by providing a framework for mutual learning or by reinforcing the capacity of social partners, for example after the enlargement to Eastern and Central European countries in 2004.

Looking forward, with the negotiations on working time, we have the chance to demonstrate the added value of the European social dialogue — that we can succeed where other forms of decision making failed. BUSINESSEUROPE has engaged in these negotiations in good faith with a view to addressing the adverse effects and legal uncertainty created by several rulings of the European Court of Justice for both employers and employees.

Finally, it is clear that the current debate on the EU macro-economic governance will have repercussions on social dialogue at European as well as at national level.

BS: Though European social dialogue has undeniably made significant progress, the joint (employers and trade unions) evaluation, carried out by Eckhard Voss of Wilke, Maack und Partner in May 2011, shows that the European social partners are nonetheless particularly concerned about 'recent developments, at both European and Member State levels, which undermine the role of social dialogue in governmental policy and decision making ... They furthermore regret that there is in some countries a serious lack of acceptance, trust and reliability regarding the dialogue, which naturally undermines and prevents appropriate implementation of European social dialogue and particularly of its autonomous actions. The trade unions' own evaluation, carried out by the European Social Observatory (early 2011), was even harsher, noting a certain dissatisfaction among workers' representatives with what they perceived to be a real weakening — in terms of both content and implementation — of the texts adopted in recent years, within the framework of social dialogue.

The fact that the socio-economic and political context has changed does not explain everything. That said, despite the frustration, the trade unions still have a strong desire to improve cross-industry social dialogue, as was shown by the discussions on the subject held at the 12th Congress of the ETUC (European Trade Union Confederation) in Athens in May 2011.

The Europe 2020 strategy requires that all the actors play their role if it is to achieve its objectives — Commission, Member States, social partners. What is the contribution that European Social Partners can make to the tripartite governance of the Europe2020 strategy?

PdB: The European social partners have discussed the conditions for growth as well as how to improve governance in our joint statement on the EU2020 strategy.

Employers believe that reforms are more likely to be implemented and to bring positive results to the economy if social partners take ownership of the measures that are put in place. Therefore, we support a strong involvement of social partners at all levels (European, national, regional and local levels) in the design and in the monitoring of both European and national reforms strategies.

At the same time, we need to recognise that governments will have to take their own responsibilities if social dialogue fails. This does not undermine the autonomy of social partners.

Since the adoption of Europe2020, other important measures have been taken and new ones might still have to be taken to improve the EU economic governance and stem the sovereign debt crisis. Personally, I am convinced that social partners have a role to play in a properly functioning monetary union as long as they agree to reform the social systems in place in order to make them sustainable. But it will require a sense of collective responsibility and a climate of trust and confidence between European employers, the ETUC and policy makers.

BS: The ETUC has been disappointed by the implementation of the Lisbon strategy. Taking stock after 10 years makes it clear that few of the many grand targets set have been achieved. And not all the blame can be laid at the door of the 2008 financial crisis. Regrettably, the Europe 2020 strategy does not sufficiently address the four factors that will dominate developments in the Union in the foreseeable future: unemployment; climate change; fiscal austerity and population change. Similarly, the strategy contains no innovative thinking about the social dimension and social policy.

How, other than with a blind austerity policy, can the EU address the tricky issue of getting out of high levels of public deficit, without aggravating the current recession and causing further increases in unemployment and inequality? Within a European context, how should we commit ourselves to quality employment? On 4 June 2010, the social partners adopted a joint declaration on the strategy. They particularly stressed the need to 'move the European economy forward at the levels of innovation, technology

and productivity. ... Social cohesion should also be considered a prerequisite for a dynamic and sustainable economy. ... Supporting new ways of financing investment and fighting poverty and inequality would be criteria for the EU's success. ... Insufficient investment in continuing education only exacerbates economic problems. Comprehensive lifelong learning strategies are necessary. A favourable public environment and access to high-quality, affordable and efficient public services are necessary ...'. Although some of these messages are directed at the Member States and/or the Commission/Parliament, it is clear that the social partners have a partial or global contribution to make to the achievement of other priorities. Implementation of the 2012-14 work programme should enable the social partners to take responsibility and actively participate in achieving the above objectives.

Similarly, the current crisis also requires all actors to pull together in a tripartite approach. What is the challenge for European social dialogue and for social dialogue in Member States in the current crisis?

PdB: The main challenge ahead for the European social dialogue is to find effective ways to promote employment. Higher employment participation is the answer to many problems we face. It broadens the tax base, thereby contributing to higher tax revenues and fiscal stability. It provides workers with an income deriving from their own work instead of being dependent on benefits. It is the only way to ensure the sustainability and adequacy of pensions systems.

The current crisis leaves us no choice: we need to redress public finances and restore growth simultaneously. Our capacity to grow depends essentially on our ability to undertake structural reforms. Without a consensus on the need to engage in structural reforms, we will have great difficulties to achieve any results in the social dialogue — European or national.

BS: Unfortunately, the current crisis and the form of economic governance now imposed, principally by two Member States and

the Commission, are used by others as a pretext for pursuing a policy of 'drastic cuts' which these leaders have been unable or unwilling to pursue at national level. We are witnessing a real challenge to, and unravelling of, a series of social advances and of the 'European social model' in general. What is more, the autonomy of the social partners is being seriously undermined at every level. Since the beginning of monetary union, the ETUC has argued that a single European currency and a European central bank needed to be complemented by closer coordination of national (macro) economic, fiscal and social policies. The European trade union movement is also aware of the seriousness of the crisis: it is imperative to go back to balanced budgets. However, the 'blind' austerity 'recommended' within the EU is only compounding the situation. Everyone knows this austerity is killing off the fragile growth experienced by some countries, because governance forces Member States to rig a systematic reduction in demand, and to pursue policies of non-cooperation — in other words, dumping. It is no wonder then that the population increasingly reject everything that comes out of 'Brussels', no wonder that populism is on the rise, nationalism is making a comeback.

There is an urgent need for the social partners to defend a 'different Europe' on all fronts. European construction must again become synonymous with progress and hope. And in this context more than ever, social dialogue must be not only a key element and pillar of the European Social Model, but also a vector of innovation and implementation of reform.

What could be the future of the European social dialogue?

PdB: The social dialogue is a central element of our social systems. One of the key ingredients for us to achieve results will derive from our capacity to agree on priorities and on a realistic while ambitious approach.

The priority now is clearly to contribute to growth and jobs in order to reduce unemployment. If the European social partners

agree on necessary economic and social reforms, I have no doubt that social partnership will remain at the heart of the decision making process.

BS: European social dialogue is now in its mature phase; it is therefore necessary to opt for an even more qualitative approach.

In the short term, negotiation of the European social partners' 4th 'autonomous work programme' (2012-2014) must bring about lasting solutions to the real problems faced by workers and citizens. The priority must be employment, especially that of young people. The Union now has over five million jobless young people; their unemployment rate is twice that of other adults. Europe cannot sacrifice a generation. Strengthening European social dialogue is undoubtedly the best way of finding the right balance between the challenges facing the European labour market at a quantitative level — more jobs — and qualitative level — better jobs. Lifelong development of skills and qualifications is another topic the ETUC plans to put forward for the work programme. Another challenge is the renegotiation of the Working Time Directive, after the breakdown of five years of negotiations between the Council and the Parliament.

In the medium term, it will be necessary to clarify the 'rights and obligations' associated with each tool of the dialogue from the point of view of its implementation, monitoring and evaluation. Transposition of 'autonomous' agreements by negotiations cannot lead to the creation of a two (or more) speed Europe. A high-quality social dialogue will also happen through greater synergies between its various levels — cross-industry, sectoral, business; these levels need to be articulated and coordinated better. There is still a need for further joint capacity-building across a range of Member States. Finally, with regard to monetary union, and rapidly developing economic governance, it is vital that the approach be consistent with the social and environmental dimensions. Action must be taken within a common European framework, and European social dialogue must be strengthened in order to develop a European tool which does not simply ape the respective national systems, but which tackles the challenges posed by the process

of European integration. In this regard, it is appropriate *inter alia* to improve the format, the composition and the preparation of the Tripartite Social Summit, in order to strengthen its role in economic governance; the same applies to the macro-economic dialogue. In conclusion: the social partners must raise the standard of their dialogue to meet the challenges — unprecedented since the Second World War — faced by the EU if they want Europe to exit this crisis with its head held high, and not dragging its feet as is now the case.

**WHAT
HAPPENED
TO WORKER
RIGHTS?**



1952-1984: The early years

The first European Community was the European Coal and Steel Community (ECSC), established in 1952 by six countries. Social dialogue was built into the ECSC through a Consultative Committee, made up of representatives of coal and steel producers, workers, consumers and dealers.

When, in 1958, the six founding Member States proceeded to set up a more wide-ranging European Economic Community (EEC), they again enshrined social dialogue through an advisory Economic and Social Committee, consisting of representatives of the various categories of economic and social activity. The Committee, today known as the European Economic and Social Committee, continues to act as an important social dialogue forum. Its members are divided into groups representing employers, employees and 'various interests'. Members are representatives of national trade unions, employers' associations and other interest organisations, nominated by national governments.

Soon after the ECSC was established, it set about developing a common mining policy, leading to the formation of a specific joint advisory committee, representing the mining industry's employers and workers. After the EEC was formed, common policies were drawn up during the 1960s and 1970s for agriculture, fisheries and various modes of transport. The European Commission created joint committees in these sectors to advise on social and employment aspects of these policies.

Forms of EU-level cross-industry dialogue started to emerge in 1970, and were essentially of a tripartite nature (see Box 4).

1985-1992: The birth of bipartite cross-industry dialogue

While cross-industry dialogue during the 1970s was largely tripartite, in the early 1980s the idea of promoting more bipartite dialogue between the social partners started to develop in the Community institutions. Its aim was to respond to the economic recession of the time, and

to reach European-level agreements addressing the social and economic issues arising in the context of the European internal market. (The internal market programme was launched in 1985.)

The Commission met representatives of the cross-industry social partners (ETUC, CEEP and UNICE, which later became BusinessEurope) in January 1985 at Val Duchesse, a castle outside Brussels, to discuss the economic and social situation. At a second meeting in November 1985, the parties set up two working parties, composed of social partner representatives and chaired by the Commission, to discuss growth, employment and investment, and the role of social dialogue in introducing new technologies.

Discussions in the macroeconomics working party led to the cross-industry partners agreeing a joint opinion on the Commission's 'cooperative growth strategy' in November 1986. This was the first formal joint text to materialise from the Val Duchesse dialogue, and was followed by further joint opinions on macroeconomic and new technology issues in 1987.

In 1987, the Single European Act came into force, amending the EEC Treaty and giving EU-level

social dialogue its first Treaty recognition. Article 118(b) of the amended Treaty obliged the Commission to 'endeavour to develop the dialogue between management and labour at European level which could, if the two sides consider it desirable, lead to relations based on agreement'.

With the new Treaty in place, and the single market moving towards completion (accompanied by increasing pressure to create a genuine social dimension), the Val Duchesse dialogue was strengthened in 1989. It was given a more formal structure with the establishment of a steering committee, while working groups were set up to discuss education/training and the emergence of a European labour market. These groups agreed various joint opinions over 1990-1993.

At sector level, the 1985-1992 period saw new joint committees established in sectors affected by Community policies such as civil aviation and telecommunications. The Commission also began to promote a new type of sectoral dialogue, and set up informal working parties in areas such as sugar, commerce and insurance, which in some cases agreed joint texts.

In October 1991, the cross-industry social partners reached their first agreement — a joint

contribution on the role of social dialogue, addressed to the Intergovernmental Conference that was preparing the Treaty on European Union (TEU), signed in Maastricht in 1992. The agreement called for a much stronger role for the social partners in formulating and implementing Community social and employment policy, and proposed a specific consultation and

negotiation procedure for them. The partners' agreement was incorporated almost unchanged into the Protocol and Agreement on Social Policy appended to the TEU (see Box 7), which enabled 11 of the 12 Member States at the time to adopt new employment and social legislation that excluded the UK, which had 'opted out' of this new mechanism.

Box 7. Social dialogue in the 1992 Agreement on Social Policy (ASP)

Article 3 of the ASP gave the Commission the task of promoting the consultation of management and labour at Community level and taking 'any relevant measure to facilitate their dialogue by ensuring balanced support for the parties'. Before submitting proposals in the social policy field, the Commission was to consult management and labour on the possible direction of Community action. If, after this consultation, the Commission considered Community action advisable, it was to consult management and labour on the content of the envisaged proposal. Management and labour were to forward to the Commission an opinion or, where appropriate, a recommendation, and could inform the Commission of their wish to initiate a negotiating process. The negotiations could not exceed nine months, unless the 'management and labour concerned' and the Commission decided jointly to extend this period.

Article 4 of the ASP stated that, should management and labour so desire, their Community-level dialogue could lead to 'contractual relations, including agreements'. Community-level agreements would be implemented either 'in accordance with the procedures and practices specific to management and labour and the Member States' or, in matters covered by the ASP and at the joint request of the signatory parties, by a 'Council decision' on a proposal from the Commission.

1993-2000: Twin-track social dialogue begins

The Maastricht Treaty and ASP came into force in November 1993, giving the European-level social partners a stronger role in framing and applying Community social policy, and greater legitimacy through their new right to be consulted on proposed Community action.

To adapt their dialogue to the new institutional framework, the cross-industry partners created a Social Dialogue Committee to act as the main central body for discussions, adoption of joint texts and planning. In 1993, the European Commission also adopted additional formal procedures, deciding on which social partner organisations to involve, and establishing the practical aspects of Treaty-based consultations and negotiations (see p. 47).

Once the Maastricht Treaty and ASP were in force, cross-industry dialogue took two distinct courses. On the one hand, the social partners followed their own autonomous agenda; on the other, consultations based on the Commission's legislative agenda shaped much of the partners' dialogue.

With regard to autonomous dia-

logue, the cross-industry partners continued to agree joint opinions on aspects of Community employment and economic policy. They also signed additional 'free-standing' joint texts such as a declaration on the employment of people with disabilities in 1999.

As for the second form of dialogue, the Commission consulted the cross-industry partners on numerous issues where it was considering Community action over the 1993-2000 period. Two of these consultations led to the partners negotiating and signing European framework agreements. Consultations on the reconciliation of professional and family life resulted in an agreement on parental leave in December 1995 — the first substantive accord signed by the cross-industry partners. Consultations on flexibility in working time and workers' security led to two agreements: in June 1997 on part-time work and in March 1999 on fixed-term work. In all three cases, the social partners requested the Commission to submit the agreements to the Council for a decision to make their requirements binding in the Member States, and the Commission proposed directives that were adopted by the Council.

Turning to sectoral social dialogue, the entry into force of the ASP meant that the Commission

began to formally consult social partners, which it had identified as representative in particular industries, on planned action in the employment and social field. Consultations led in some cases to negotiations among the social partners on sector-specific issues. For example, agreements on working time were reached in the sea transport and civil aviation joint committees which, at the partners' request, were implemented by Council directives.

The 1990s saw the creation of several new sectoral joint committees and informal working parties. However, the Commission was dissatisfied with the effectiveness of the patchwork of joint committees and working parties that had grown up since the 1950s. It concluded in 1998 that a more harmonised

approach was needed, to ensure a more equitable treatment of the various sectors and to enable all sectors to contribute effectively to the development of the relevant Community policies. It therefore decided to replace all existing sectoral structures with new sectoral social dialogue committees (see Box 8).

An important institutional change occurred in 1999, when the Treaty of Amsterdam came into force, amending the existing treaties. The UK had decided to reverse its earlier social policy 'opt-out', thereby restoring unified Community decision-making on social and employment policy. The Amsterdam Treaty incorporated the ASP into the Treaty establishing the European Community (TEC), as Articles 138 and 139.



Box 8. The 1998 reform of sectoral social dialogue

In a Decision issued in May 1998, the European Commission replaced existing sectoral dialogue structures with sectoral social dialogue committees (SSDCs), with effect from 1999. SSDCs can be set up in sectors where the social partners jointly request dialogue at European level, and where employers' and workers' organisations:

- relate to specific sectors or categories and are organised at European level;
- consist of organisations that are themselves an 'integral and recognised part of Member States' social partner structures', have the capacity to negotiate agreements and are representative of several Member States; and
- have adequate structures to ensure their 'effective participation' in the committees' work.

SSDCs are consulted in a timely and substantial way on developments at Community level with social implications for their sectors, and also have the task of developing and promoting social dialogue. They are composed of equal numbers of representatives of employers and workers, invited by the Commission on the basis of a proposal from the social partners that requested the SSDC's creation. SSDCs must meet at least once a year, and the Commission provides secretarial services and technical back-up for meetings.

Initially 21 SSDCs were created in 1999, in industries formerly covered by joint committees and working parties. Since 1999, the number of SSDCs has grown by an average of around two a year, and in 2011 there were 40 committees (see Annex 1). They cover industries that employ some 145 million workers, three-quarters of the EU workforce.

Since 2001: Greater social partner autonomy

The cross-industry social partners (which now include UEAPME and CEC/Eurocadres) announced in 2001 (in a joint contribution to a European Council held in Laeken) that they wanted to reposition their dialogue to take account of challenges such as EU enlargement, debate on Europe's future governance and the introduction of the single currency. The partners decided to make their bipartite dialogue (whether or not triggered by official consultations) better organised and more autonomous, and base it on a work programme that, while drawn up and implemented independently, would contribute to the EU growth and employment strategy and to enlargement.

The partners' more autonomous approach was expressed in 2002 in a new type of joint text, a 'framework of actions' for the lifelong development of competencies and qualifications. This established priorities, guidelines and proposed actions, to be promoted at national level by the member organisations of the signatories (see p. 68). Furthermore, following consultations by the Commission, the social partners signed a framework agreement on teleworking

in July 2002. In contrast to earlier cross-industry agreements, the partners did not ask for the teleworking agreement to be implemented by a directive. Instead, the agreement was to be implemented by the signatories' national member organisations, 'in accordance with the procedures and practices specific to management and labour in the Member States'.

The first **cross-industry multi-annual work programme** agreed by the social partners covered the 2003-2005 period. It had three priorities — employment, mobility and enlargement — and contained a mixture of proposed instruments and activities, mostly initiated autonomously, but in some cases instigated at least partly by Commission consultations. The work programme led to a 2004 framework agreement on work-related stress, which was implemented by the signatories' national members, and to a second framework of actions on gender equality, in 2005.

The cross-industry partners subsequently agreed work programmes for 2006-2008 and 2009-2010. The 2006-2008 programme led to an agreement on harassment and violence at work in 2007, which was implemented 'in accordance with the

procedures and practices specific to management and labour', as well as a 2007 joint analysis of European labour market challenges. The most significant output of the 2009-2010 programme was an agreement on inclusive labour markets, again implemented by the signatories' national member organisations.

Alongside the autonomous work of the cross-industry social partners, their dialogue continued to be strongly influenced by Commission consultations. While many consultations did not produce negotiations, several did so. As well as the 2010 agreement on inclusive labour markets (based in part on earlier consultations), the main outcome was a framework agreement reached in 2009 to amend the 1995 accord

on parental leave. The revised agreement was implemented by a directive.

The social partners also developed a new way of jointly influencing EU legislation. In 2004-2005, the Commission consulted on measures to enhance the effectiveness of EWCs, including possible revision of the 1994 Directive. The cross-industry partners did not seek to negotiate an agreement. In 2008, the Commission proposed a 'recast' version of the Directive. At this stage, the social partners agreed a 'joint advice', suggesting amendments to the Commission's text. The Council and Parliament accepted most of these suggestions in the recast Directive adopted in 2009.

Box 9. The social dialogue and EU enlargement

The EU grew from six Member States to nine in 1973, 10 in 1981, 12 in 1986 and 15 in 1995. These enlargements involved western European countries that were fairly homogeneous in some important aspects of their social dialogue arrangements. For example, most had: independent and relatively representative social partner organisations; a collective bargaining system with a high degree of coverage, usually based on sector-level agreements; and a range of bipartite and/or tripartite consultative arrangements at various levels. When these countries joined the EU, their social partners were able to take their place in

European-level dialogue with little difficulty, and play their role in implementing the employment and social '*acquis communautaire*' (see p. 14) at national level.

The enlargement of the EU in 2004 and 2007 to include 12 new Member States to the south and east — Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovakia and Slovenia — involved challenges. Given their histories, many of these countries had relatively weak social partner organisations, little tradition of independent bipartite dialogue and bargaining, and low bargaining coverage, especially with regard to sectoral agreements. This presented problems for implementing the *acquis communautaire* and participating in EU-level social dialogue. In the run-up to accession, the European Commission therefore ran a number of projects providing financial and technical assistance aimed at strengthening social dialogue at cross-industry and sectoral levels, encouraging the development of independent and representative social partner organisations, and building their capacity to act.

For their part, the EU-level cross-industry social partners also provided support, advice and encouragement for social partner capacity-building and the development of social dialogue in the new Member States. In many sectors, the EU-level partners took similar initiatives and made efforts to engage the relevant national organisations from the new Member States in their dialogue.

Today, the new Member States generally have stronger social dialogue arrangements than before enlargement, though not uniformly so. The EU-level social partner organisations at cross-industry and sectoral levels have all integrated affiliates from the new Member States. Almost all sectoral social dialogue committees include representatives from new Member States, though the extent varies considerably. While part of this variation reflects the relative importance of particular sectors in the new Member States, it may in some sectors also arise from difficulties in identifying social partner organisations in these countries.

Besides responding to legislative consultations by the Commission, the cross-industry partners also made a number of joint contributions to wider EU debates over the 2001-2011 period, such as on treaty changes, and employment and economic policy.

This period saw no basic institutional change in the structure of the sectoral social dialogue, apart from the consolidation and spread of the SSDCs (see Box 8). Several agreements were reached in response to formal Commission consultations and implemented, at the signatories' request, by Council directives (see p. 53). A number of other sectoral agreements, usually negotiated following Commission consultations on related themes, were implemented by the signatories' national member organisations (see Box 12).

The consultative role of the SSDCs was strengthened in 2009, when the Commission introduced new guidelines for

the impact assessments that it conducts for all its initiatives. The relevant SSDC must now be consulted on these assessments when the initiative in question has social implications for its industry.

The Lisbon Treaty came into force in December 2009, amending the TEU and replacing the TEC with the Treaty on the Functioning of the European Union (TFEU). In terms of social dialogue, the provisions on social partner consultations and negotiations (formerly contained in Articles 138 and 139 of the TEC) have been retained virtually unchanged in the TFEU, in Articles 154 and 155 (which are examined in detail on pp. 45-54). The main change is that the TFEU contains a new Article 152, stating that the Union 'recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems' and 'shall facilitate dialogue between the social partners, respecting their autonomy'.

Message from the EESC

Staffan Nilsson

President of the European Economic and Social Committee



Social dialogue is the social partners' *raison d'être* and is also, therefore, a pivotal element of the EESC's work and that of many national economic and social councils, and similar structures in the EU's Member States. Social dialogue may not be as fascinating as the daily arguments between 'real' politicians, and certainly does not get as much media attention. However, in some ways social dialogue is a more interesting kind of politics, since social partners, often starting from very different positions, always have to come to some sort of agreement in the end. It is never a case of 'the winner takes it all'. In fact, social dialogue is the very basis of our European societies. Without it there can be no economic and social progress or stability. It is through social dialogue that the demands of workers are reconciled with those of employers and other economic interests, hopefully benefiting all of us.

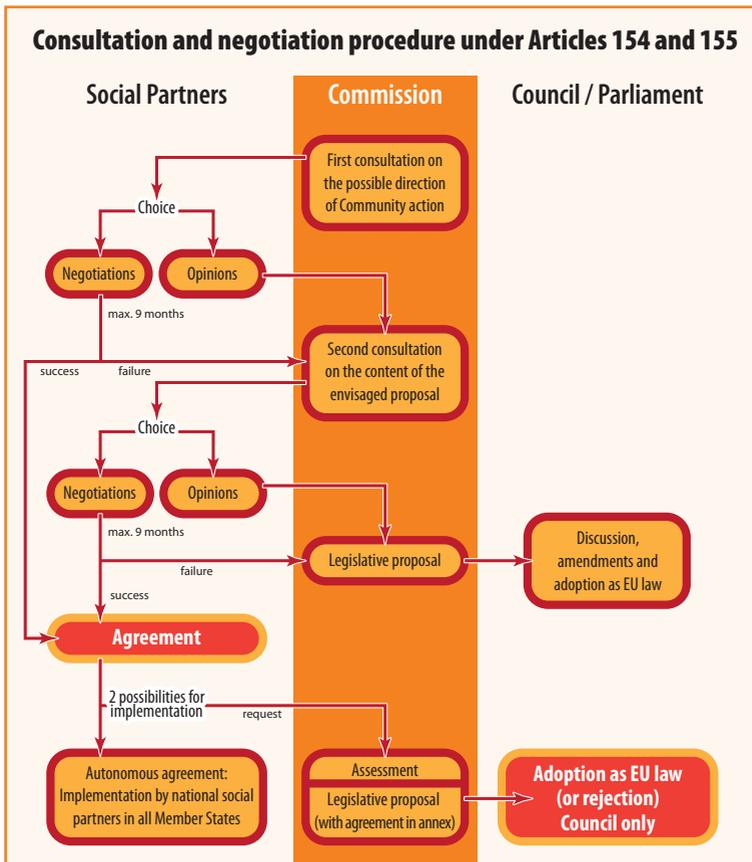
In times of crisis, therefore, social partners and all civil society players must also be part of reform processes. The EU Treaty obliges all EU institutions to engage in structured dialogue with civil society. The EESC, with more than half a century of experience in consensus-building, is well prepared for the challenge and ready to help. We champion the view that properly designed social and labour market policies — which always involve social dialogue — are a positive force, not only in terms of social justice, but also in terms of overall economic performance. Only with social partners and civil society on board can the Europe 2020 strategy deliver concrete results and a better life to all Europeans.



Chapter 3 How EU-level social dialogue works

EU-level social dialogue, at both cross-industry and sector levels, has two main elements — action in response to consultations by the European Commission, and independent work on issues identified by the social partners themselves

(though these may be designed to feed into EU debate and policy). Treaty-based consultations by the Commission are common to both the cross-industry and sector dialogue, and we look first at the mechanics of this process.



Consultation on social policy proposals

On the basis of Article 154 of the TFEU, before submitting proposals in the social and employment policy field, the Commission is required to consult management and labour on the possible direction of Union action. The social partner organisations that it consults are those that:

- are cross-industry, or relate to specific sectors or categories, and are organised at European level;
- consist of organisations that are themselves 'an integral and recognised part of Member States' social partner structures', have the capacity to negotiate agreements and are representative of all Member States, as far as possible; and
- have 'adequate structures' to ensure their effective participation in the consultation process.

The Commission maintains and updates a list of organisations considered to meet these criteria for consultation. The current list (reproduced in Annex 1) consists of:

- three general cross-industry organisations (BusinessEurope, CEEP and the ETUC);
- three cross-industry organisations representing certain categories of workers or undertakings (Eurocadres, UEAPME and CEC);

- one 'specific organisation' (Eurochambres — the European Association of Chambers of Commerce and Industry);
- 62 sectoral organisations representing employers; and
- 17 sectoral European trade union organisations.

These organisations have six weeks to respond to the initial consultation, which normally describes the issues concerned and raises general questions about possible action. The Commission asks the social partners for their views on both the substantive matter and whether Union action is required (and if so, what sort of action), and enquires whether they might consider initiating a dialogue.

If, after this first consultation, the Commission considers EU action advisable, it consults the social partner organisations on its list a second time, this time on the content of the envisaged proposal. Again the social partners have six weeks to respond. The second-stage consultation document typically summarises responses to the initial consultation and sets out more concrete options for EU action. It asks the partners for their views on the options and whether they are willing to enter into negotiations on all or some of the issues raised. The social partners can, in

response, send the Commission an opinion or recommendation on the issues raised.

In response to either a first- or second-stage consultation, the social partners can decide jointly to launch EU-level negotiations on the issue in question.

Treaty-based negotiations between the social partners

Article 155 of the TFEU stipulates that dialogue between management and labour at EU level may, if they so wish, lead to 'contractual relations', including agreements.

If the social partners decide to negotiate following a consultation by the Commission on a proposal for EU action in the social policy field, they must inform the Commission, which then temporarily suspends work on the proposal. The partners then have nine months to reach an agreement, unless they agree jointly with the Commission to extend this period. If the negotiations arise purely on the social partners' own initiative, there is no such deadline for their talks.

Where the social partners reach an EU-level agreement, they have two options for implementing the agreement:

- in all cases, the partners can decide to implement the accord 'in accordance with the procedures and practices specific to management and labour and the Member States' — in other words, the agreement will be implemented by the signatories' national member organisations, in ways consistent with the industrial relations systems in each Member State; or
- where the agreement deals with employment/social matters which fall within the EU's competence, the social partners have the option of asking the Commission to propose a decision (in practice, a directive) to be adopted by the Council, giving the agreement legal force across the EU.

Where the social partners ask the Commission to propose a directive to the Council to implement an agreement reached following Article 154 consultations, the Commission first conducts an assessment. It checks the representative status of the signatory organisations, their mandate and the legality of the agreement's content in relation to EU law, as well as the provisions regarding SMEs. (The Treaty provides that employment legislation must avoid imposing administrative, financial and legal constraints that would hamper the creation

and development of SMEs.) Only if it is satisfied does the Commission draft a directive. The directive makes the agreement in question legally binding across the EU and the agreement is attached as an annex. The Council decides only whether or not to adopt the directive; it does not have the opportunity to amend the agreement's provisions. Adoption of the directive means that the Commission halts work on its proposal in the specific areas covered by the agreement.

Where the social partners reach an agreement following Article 154 consultations, and decide to implement it in accordance with the procedures and practices specific to management and labour and the Member States, the Commission conducts an assessment in the same way as for agreements that are to be implemented by a directive. While the Commission will halt work on the specific issues dealt with, it also monitors the EU-wide implementation of the agreement, evaluating the extent to which it contributes to achieving the Union's objectives. If the Commission decides that the agreement does not meet these objectives, it can at any time resume work on the issue in question and, if necessary, propose legislation.

As to the choice between implementation by a directive or by the signatories' themselves of EU-level agreements, reached following formal consultations, the general rule is that preference should be given to implementation by a directive when agreements deal with fundamental rights or important political issues, or where it is important that rules must be applied uniformly and completely across the EU, or where the aim is to amend an existing directive.

Functioning of cross-industry social dialogue

The main forum for bipartite cross-industry dialogue is the Social Dialogue Committee (SDC). Established in 1992, the SDC is made up of 32 representatives of trade unions (ETUC, with Eurocadres and CEC as part of its delegation) and 32 representatives of employers (Business-Europe, CEEP and UEAPME), and is chaired by the European Commission. It normally meets three times a year and may set up working groups to deal with specific issues.

In the case of an Article 154 consultation, where one or more of the partners is in favour of negotiating on the issue in question, they usually sound out the other

partners about the feasibility of talks. When the partners decide to negotiate, the trade union and employer sides draw up their respective mandates, which must be approved by the decision-making bodies of each of the EU-level social partner organisations concerned. The two sides then appoint negotiating teams, and negotiations start, presided over by an independent mediator. The negotiations must be completed within nine months, unless the partners agree an extension with the Commission.

The cross-industry partners' autonomous dialogue takes a number of forms, including:

- drawing up autonomous work programmes (over the 2003-2010 period, the partners' joint activities were based on a series of three multi-year programmes; a fourth, covering the 2012-2014 period, is

expected to be adopted in the first quarter of 2012);

- identifying themes for autonomous negotiations, and then holding talks that can result in agreements or other joint commitments, such as frameworks of actions;
- discussing the employment and social implications of EU policies and strategies, and often drawing up joint opinions, statements and similar texts, addressed to the EU institutions;
- conducting joint transnational projects to promote exchange of views and best practice, frequently resulting in the joint publication of guides and similar documents;
- holding joint seminars and conferences;
- following up the implementation at national level of earlier agreements and frameworks of actions.

Box 10. The Tripartite Social Summit

The Tripartite Social Summit for Growth and Employment was formally established by a Council Decision (2003/174/EC) in 2003, and was recognised and given the role of contributing to social dialogue by the Lisbon Treaty in 2009. Its role is to ensure continuous dialogue between the Council, the European Commission and the EU-level social partners, enabling the latter to contribute to the various components of the EU's integrated economic and social strategy, including its sustainable development dimension. The Summit draws on the work

of the various specialised tripartite concertation forums on economic, social and employment matters (see Box 4).

The Summit brings together high-level representatives of the current Council Presidency and two subsequent Presidencies (including ministers responsible for labour and social affairs, plus other ministers depending on the agenda), the Commission and the social partners. Workers and employers are each represented by a 10-member delegation (with a balanced participation between men and women) made up of representatives of EU-level cross-industry social partner organisations. The workers' delegation is coordinated by the ETUC and the employers' delegation by BusinessEurope, both ensuring that specific and sectoral organisations have their views fully taken into account and, where appropriate, have representatives included in the delegations.

The Summit's agenda is determined jointly by the Council Presidency, the Commission and cross-industry social partners. The topics on the agenda are also discussed by the Employment, Social Policy, Health and Consumer Affairs Council.

The Summit has met twice a year since its inception in 2003. It is chaired jointly by the Presidents of the European Council, the Council of the EU and the Commission.

The Summit has allowed the social partners to make an input into the EU's Lisbon Strategy for Growth and Jobs, and later the Europe 2020 Strategy. For example, they presented their cross-industry agreement on inclusive labour markets (see p. 64) to the Summit in March 2010 as a contribution to Europe 2020's inclusive growth agenda, and a joint analysis of key challenges facing European labour markets to the October 2007 Summit as an input to the EU debate on flexicurity. During the economic crisis, the Summit has, in particular, provided a forum for the social partners to give their views on how to deal with the crisis and its employment implications, and return to growth.

Functioning of sectoral social dialogue

The recognised sectoral social partners are consulted by the European Commission on social and employment policy proposals, in the same way as the cross-industry partners (under the procedure laid down in Article 154 of the TFEU). Where the issue under consideration is specific to one sector, or has particular implications in a sector, the sectoral social partners may decide to negotiate a European-level agreement on the matter. Agreements reached can be implemented by the national members of the signatory organisations or, at the signatories' request, by means of a directive.

While SSDCs may provide the forum for negotiations based on Article 154 consultations, it is the individual social partner organisations, rather than the SSDCs, that the Commission consults under this procedure. The SSDCs have their own specific consultative role relating to EU-level developments in fields other than social policy, which have social implications in their sector. The various European Commission departments are required to verify whether proposed initiatives will have social implications for any sectors, and if so to consult the relevant SSDC. For example, when drawing up the mandatory impact assessments that precede its legislative initiatives, the Commission must



© ImageGlobe

consult SSDCs in the industries concerned, analysing the issue in question, the policy options and their potential social and employment impact. In response, SSDCs can, and relatively often do, agree joint opinions, positions or statements as a contribution to the Commission's policy-making.

Only part of the work of the SSDCs is driven by European Commission consultations. Their

role also includes developing and promoting an autonomous bipartite social dialogue in their sector. SSDCs draw up their own rules of procedure, and in most cases produce work programmes that guide their activities for a period of one or several years. These programmes usually identify a number of key themes for work over the period in question, which are typically handled by ad hoc or permanent working parties. The social

Social dialogue texts

Agreements establishing standards (Article 155(2) TFEU)	Framework agreements	Implementation
	Autonomous agreements	
Recommendations on standards and principles (process-oriented texts)	Frameworks of action	Follow-up at national level
	Guidelines and codes of conduct	
	Policy orientations	
Exchange of information	Joint opinions	Information diffusion
	Declarations	
	Tools	

partners may conduct or commission research on the themes in question, hold conferences and seminars, exchange best practice and conduct other joint project work, often with a degree of funding under Commission social dialogue budgets. In some cases, this leads to the signing of an agreement or other joint text.

Instruments

The joint texts, or ‘instruments’, agreed by the social partners take a variety of forms, depending on the origin of the initiative, the issue in question, and the objectives and capacity of the signatories. They can be broadly classified as follows:

- agreements;
- ‘process-oriented’ texts;
- joint opinions and tools;
- procedural texts.

Agreements

EU-level agreements establish minimum standards to apply across the EU and lay down certain commitments to be implemented by a deadline. As explained on p. 45, they can be triggered by formal consultations of the social partners under Article 154 of the TFEU, or result

from negotiations launched on the initiative of the social partners. Agreements can be implemented in one of the two ways, as set out in Article 155:

- by a Council directive proposed by the European Commission, at the joint request of the signatories, which makes the agreement legally binding across the EU; or
- in accordance with the procedures and practices specific to management and labour and the Member States — in other words, by the national member organisations of the signatories.

Responsibility for ensuring the transposition of agreements implemented by a directive lies with the Member States, and responsibility for monitoring implementation lies primarily with the Commission. By contrast, responsibility for implementing ‘autonomous’ agreements and monitoring their implementation lies with the social partners. However, especially where such agreements were negotiated following Article 154 consultations, the signatories are obliged to implement them and exert influence on their member organisations to do so.

Process-oriented texts

Some joint texts signed by the social partners provide for implementation, as agreements do, but are implemented in a more incremental and process-oriented way. These texts set out recommendations from the EU-level partners to their members for follow-up, and specify regular evaluation of the progress made towards achieving their objectives. Process-oriented texts fall into the following categories:

- *Frameworks of action* identify policy priorities, towards which the national member organisations of the signatories make a commitment to work. These priorities act as benchmarks, and the social partners report regularly on the action taken to follow them up.
- *Guidelines and codes of conduct* set out recommendations and/or provide guidelines from the signatories to national member organisations concerning the establishment of standards or principles.
- *Policy orientations* are texts in which the signatories take an active approach to promoting particular policies among their members, explaining how this should be done (for

example, through the collection and exchange of good practices, or awareness-raising activities) and setting out how the social partners will assess the follow-up and its impact.

Joint opinions and tools

Some joint texts essentially contribute to the provision or exchange of information, either upwards from the social partners to the EU institutions and/or national public authorities, or downwards, by explaining the implications of EU policies to the social partners' national members. These instruments do not entail any implementation, monitoring or follow-up. They fall into three types:

- *Joint opinions* (and statements) generally intend to provide input to the EU institutions and/or national public authorities. These texts can: respond to an EU consultation (such as Green or White Papers and consultation documents); express a joint position on a specific EU policy; or ask the Commission to take a particular stance or action.
- *Declarations* are usually directed at the social partners themselves, outlining future work and activities which they intend to undertake.

- *Tools* developed by the social partners, often with the assistance of EU grants, include guides and manuals providing practical advice to employees and companies, for example explaining the implications of EU legislation on particular topics, or promoting exchanges of good practice.

Procedural texts

The social partners have also signed a number of joint texts that do not have any substantive content but lay down the rules for their bipartite dialogue. Most texts of this type are the rules of procedure agreed by the partners for the sectoral social dialogue committees.



Voice from the European Parliament

Thomas Mann

Member of the European Parliament (EPP)

As an MEP, what is your view of European social dialogue as a bipartite autonomous process?

I am a strong supporter of the social dialogue! These regular meetings between the representatives of the European trade unions and employers' organisations have a long and impressive tradition. These partners cover, at the moment, 145 million workers in the European Union. To my mind a cooperative and consensual relation between social partners is a corner stone of the EU social model.

Turning to the tripartite dimension, what contribution can European Social Partners make in your view, to the implementation of the Europe 2020 strategy?

The European Social Partners are essential for the success of the Europe 2020 strategy. The reason is simple: they are at a maximum degree close to the everyday life of workers and employers. Therefore, Europe 2020 can be implemented more successfully when the Social Partners support its aims and actions. Communication is an important instrument they can contribute. Europe 2020 is complex and must be explained; otherwise we are in danger that it will be not understood. For MEPs this is a daily job!

Articles 154-155 of the TFEU provide for regulation by social partners for social partners. Do you believe that social partners should make the most of their capacity to negotiate agreements in view of better regulation in the field of employment and social policy?

I am convinced that social partners should make the most of their capacity. A look into EU history shows that there is no example for a negative outcome of social partner agreements — they are a story of success! Both sides profit from a win-win situation. The high and

growing number of sectoral social dialogue committees is a clear indicator for the attractiveness and benefits of the related political instruments.

Do you see a role for European social dialogue in the current crisis? What form could this take?

The dialogue between enterprises, workers and the European Union helped and helps to realise decision for the current crisis. Social partners in the Member States started a process of negotiations to reduce the consequences of the crisis. Many agreements have been signed on national level, especially in the field of working time, to avoid a massive rising in unemployment.

At the moment the countries with the strongest social partnership find better solutions for the crisis.

What role and main challenges do you see for social dialogue in Member States in the context of the economic crisis and Europe 2020?

The crisis is a big impactor in economic and social history in Europe. It put massive pressure on antagonism. Social dialogue during the crisis increased the level of trust between employers and trade unions, as mass unemployment has been avoided in many Member States. Now social partners should proceed on this way of strong cooperation. More advances must be made, particularly in terms of creating wealth and reducing inequalities.



What has been achieved in EU-level social dialogue?

Overview of social dialogue joint texts signed

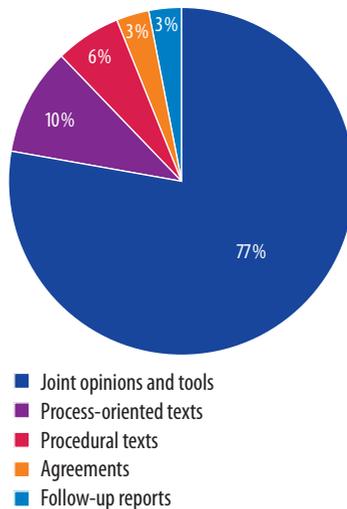
Part of the EU-level social dialogue's value comes from the process itself, and the contacts, confidence-building, exchanges of views and information, and experience of joint work that it entails. Such achievements are, by their nature, hard to quantify and evaluate. The dialogue also involves activities such as joint studies, conferences and seminars, as well as capacity-building initiatives in the new Member States. The most concrete and high-profile outcomes of the dialogue are the various joint texts agreed by the social partners, and it is through these that the achievements of the dialogue can be most readily assessed.

The European Commission maintains a database of joint texts concluded by the social partners at cross-industry and sectoral level. As at October 2011 (all figures used here refer to the contents of the database at this time), 650 joint texts have been produced by the EU-level social dialogue. These date back to 1978, but the vast majority had been agreed since

the second half of the 1980s, when the bipartite dialogue began in earnest at cross-industry level and was launched in a substantial number of sectors.

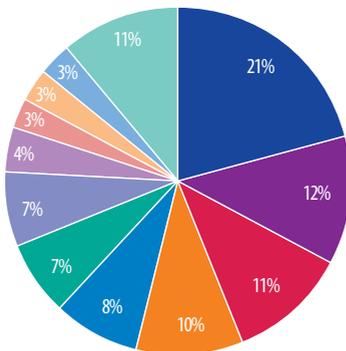
Of all joint texts (see Figure 1), over three-quarter are joint opinions and tools, while one in 10 are process-oriented texts. The remainder are procedural texts, follow-up reports (looking at the implementation of earlier joint texts) and agreements (making up only 3% of the total).

Figure 1: EU-level social dialogue texts, by type



The subjects of agreed joint texts give a strong indication of what is on the agenda of the EU-level social dialogue (see Figure 2). The 11 most common issues addressed (each of which accounts for at least 3 % of all joint texts) are shown in Figure 2.

Figure 2: EU-level social dialogue texts, by subject



- Economic and/or sectoral issues
- Social dialogue (e.g. procedures, commitments to hold dialogue)
- Training and lifelong learning
- Health and safety
- Promoting employment
- Working conditions
- Social aspects of EU policies
- Corporate social responsibility
- Working time
- Gender equality
- Sustainable development
- Other issues

Other issues less commonly covered by joint texts are:

- EU enlargement, usually in the

- context of the enlargements in 2004 and 2007, focusing on matters such as integrating partners from new Member States into the social dialogue;
- mobility, notably dealing with social security or qualifications aspects of intra-EU mobility;
- public procurement, often promoting socially-responsible or best-value approaches to purchasing;
- restructuring, particularly the socially responsible management of sectoral or company change;
- telework, tackling topics such as the treatment of the employees involved and the practical arrangements;
- the ageing workforce, addressing matters such as age diversity and demographic challenges;
- harassment, including violence at work;
- young people, dealing with aspects of their employment or contributing to EU policy;
- racism, seeking to prevent such behaviour, including xenophobia;
- undeclared work, generally aiming to combat it in specific sectors; and
- disability, for example promoting the employment and integration of people with disabilities.

Key achievements: agreements implemented by Directives

The most tangible achievements of the EU-level social dialogue, from the point of view of the everyday working lives of employees and employers, are those agreements that have been made legally binding across the Union by Council directives. There are four such cross-industry agreements, two

dealing with parental leave and one each with part-time work and fixed-term work (see Box 11). These agreements have resulted in changes to legislation in many Member States (though national provisions already exceeded the agreements' requirements in some cases), and given millions of workers new rights, resulting in improved employment conditions for part-time and fixed-term workers, and working parents.

Box 11. The four cross-industry agreements implemented by directives

- The framework agreement of December 1995 on parental leave gives all employees an individual, non-transferable right to at least three months' parental leave until their child reaches a given age (to be defined at national level) of up to eight years. The accord also entitles employees to time off for urgent family reasons. The agreement was implemented by Directive 96/34/EC that the Member States had to transpose by June 1998 (or by the time of accession for Member States that joined the EU later).
- The framework agreement of June 1997 on part-time work establishes the principle that part-time workers must not be treated less favourably than comparable full-time workers solely because they work part time. It was implemented by Directive 97/81/EC that had to be transposed at national level by January 2000 (or by the time of accession for Member States that joined the EU later).
- The framework agreement of March 1999 on fixed-term work laid down the principle that fixed-term workers must not be treated less favourably than comparable workers on open-ended contracts solely because they have a fixed-term contract. The accord was implemented by Directive

1999/70/EC that the Member States had to transpose by July 2001 (or by the time of accession for Member States that joined the EU later).

- In June 2009, the social partners signed a revised version of their 1995 parental leave agreement. Changes included an increase in the minimum parental leave entitlement from three to four months per employee, with at least one month being non-transferable between parents. The agreement was implemented by Directive 2010/18/EU, repealing and replacing the 1996 Directive, which the Member States must transpose by March 2012.

Five sectoral agreements have been implemented by directives, as follows:

- An agreement on seafarers' working time was signed by the sectoral social partners (ECSA and ETF) in September 1998, regulating matters such as working and rest hours for these workers, who are not fully covered by the EU Working Time Directive (2003/88/EC). The agreement was implemented by Directive 1999/63/EC, which Member States had to transpose by June 2002.
- Similarly, an agreement on the working time of mobile civil aviation staff, another group not fully covered by the Working Time Directive, was signed by the sectoral partners (AEA, ETF, ECA, ERA and IACA) in March 2000 and implemented by Directive 2000/79/EC, with a transposition date of December 2003.
- In January 2004, the railway sector partners (CER and ETF) signed an agreement on the working conditions of mobile workers assigned to 'interoperable' cross-border rail services. The agreement focuses mainly on rest periods/breaks and driving time, with more specific provisions than the Working Time Directive. It was implemented by Directive 2005/47/EC that was to be transposed nationally by July 2008.
- An agreement signed in May 2008 by the maritime transport social partners dealt with the implementation in EU law of the Maritime Labour Convention, adopted in 2006 by the ILO. The Convention lays down minimum requirements for seafarers' conditions of employment, and the social partners' agreement sets out the necessary changes to EU legislation to comply with the

Convention. The agreement was implemented by Directive 2009/13/EC that Member States had to transpose within a year of the Convention entering into force.

- In July 2009, the social partners (HOSPEEM and EPSU) concluded an agreement on preventing 'sharp injuries' (for example, from needles and scalpels) in the hospital and healthcare sector. The accord addresses areas such as prevention, protection, risk assessment, training and information. It was implemented by Directive 2010/32/EU, with a transposition deadline of May 2013.

As with the cross-industry agreements implemented through directives, these sectoral agreements have brought, or will soon bring, practical and legally binding improvements in employment and working conditions for workers across the EU, specifically for seafarers, mobile civil aviation workers, rail workers on international services and hospitals staff.

Key achievements: agreements implemented by the social partners

Four cross-industry agreements have been, or are being, implemented by the signatories' national member organisations

'in accordance with the procedures and practices specific to management and labour and the Member States', as follows:

- The framework agreement of July 2002 on telework provides that teleworkers should have the same employment rights as other employees, and establishes guarantees in areas such as access, costs, health and safety, working time and collective rights. The members of the cross-industry social partners were to implement the agreement by July 2005.
- In October 2004, the partners signed a framework agreement on work-related stress, which seeks to increase awareness and understanding, and provide employers and workers with an 'action-oriented framework' to identify and prevent or manage problems. National member organisations had to implement the agreement by October 2007.
- A framework agreement on harassment and violence at work was signed in April 2007. It promotes awareness-raising and training, requires companies to have clear statements and procedures, and provides for appropriate action to be taken against perpetrators and support given to victims. The implementation date for national members was April 2010.

- The social partners signed a framework agreement on inclusive labour markets in March 2010, aimed at helping people facing difficulties in entering, returning to or integrating into the labour market, or at risk of losing their job. The accord outlines measures in areas such as education and training, recruitment and induction, individual competence development, geographical and occupational mobility, the promotion of workforce diversity, awareness-raising, information dissemination and action plans. The agreement is to be implemented by March 2013.
- Four notable sectoral agreements also provide for implementation by the signatories' members in this way — see Box 12.

Box 12. Sectoral agreements implemented in accordance with the procedures and practices specific to management and labour and the Member States

- In January 2004, the railway sector social partners (CER and ETF) signed an agreement on a European licence for drivers on cross-border 'interoperability' services. This provides for a common licence, based on minimum standards, for drivers operating international train services in other countries. The agreement was to be implemented by CER's member companies. Following the adoption of a Directive on drivers' certification in 2007 (based in part on the earlier agreement), the social partners issued a joint declaration in 2009 to clarify the application of their 2004 agreement.
- The social partners in 14 industries that use crystalline silica (a hazardous substance) reached a multisectoral agreement in 2006 on protecting workers' health through the good handling and use of the substance. The agreement sets out good practices that employers, employees and employees' representatives will jointly implement at site level. Implementation by national members is ongoing and being overseen by a joint council.

- In June 2009, the sectoral partners (Coiffure EU and Uni Europa) signed an agreement on the implementation of European certificates for hairdressers, based on common training standards. The signatories' members were to implement it at national level by June 2011.
- The framework agreement of April 2011 on competence profiles between the chemicals industry partners (ECEG and EMCEF) lays down minimum core competences for process operators and first-line supervisors in the sector across Europe. The signatories' members will take the agreement into account in each country, and ECEG and EMCEF will promote the agreement's provisions through their members at European, national, sectoral, regional, local and company levels.

Where an EU-level agreement is put into effect through 'the procedures and practices specific to management and labour' in each country, the fact that these procedures and practices vary widely means that implementation takes diverse forms and the impact of the agreement can be hard to judge. The evidence on the first two cross-industry agreements (see Box 13) shows that they have been implemented through a wide range of

binding or non-binding agreements, recommendations, and declarations, as well as by legislation. In both cases, the overall effect has been to improve workers' protection and advance EU objectives in most countries, but the impact has been patchy, with gaps and even a total lack of implementation in some Member States. Some countries that joined the EU in 2004 and 2007 have experienced particular problems in this area.

Box 13. The challenge of implementing autonomous social partner agreements

The first two cross-industry EU-level agreements to be applied in accordance with the procedures and practices specific to management and labour and the Member States were those on telework and work-related stress. They were to be implemented by the signatories' member organisations by 2005 and 2007 respectively. Their implementation has been evaluated by the social partners and the European Commission, and the findings illustrate the challenges of implementing agreements in this way.

Given the differences in national industrial relations and legal systems, and the varying amounts of change required to comply with the agreements, implementation in the Member States has taken a variety of forms (and more than one in some countries). Implementing one or both agreements has involved:

- national cross-industry collective agreements (e.g. in Belgium, France, Greece, Iceland, Italy, Luxembourg and Romania);
- sectoral collective agreements (e.g. in Denmark and the Netherlands);
- guidelines or recommendations addressed by the cross-industry partners to lower bargaining levels and/or to individual companies and workers (e.g. in Austria, the Czech Republic, Finland, Germany, Ireland, Latvia, Luxembourg, the Netherlands, Norway, Spain, Sweden and the UK);
- model agreements or tools drawn up by the social partners (e.g. in Austria, Germany, Ireland, and the UK);
- joint declarations issued by the national social partners (e.g. in Cyprus, Germany, Poland and Slovenia); and
- legislation (e.g. in the Czech Republic, Hungary, Italy, Latvia, Poland, Portugal, Slovakia and Slovenia), drawn up with varying degrees of social partner input.

At the time of the Commission's evaluations (2008 for telework, 2011 for stress), neither agreement had been reported as implemented in Bulgaria, Estonia, Lithuania and Malta. The situation was similar with regard to the telework agreement in Cyprus and Romania.

The Commission concluded, in respect of the telework agreement, that the implementation instruments chosen, and the level of protection and guidance provided, were adequate in most countries, and that its objectives had largely been achieved. However, it identified problems in various countries, such as the lack of any implementation (or a lack of joint, rather than unilateral, implementation) or only partial implementation, and raised questions as to whether national social partners' recommendations were taken up at lower bargaining levels.

With regard to the stress agreement, the Commission found that it had contributed to raising awareness, promoting a set of principles and rules, and building consensus within the EU. However, it identified a number of shortcomings in terms of the coverage and impact of measures. Some countries had not implemented the agreement, while the social partners in others had chosen non-binding instruments or unilateral action that did not cover all workers, or that had not been followed up fully. The Commission stated that there were persistent discrepancies in the levels of protection from stress available across the Member States, and that it was not possible to conclude that a minimum level of protection had been established throughout the EU.

Particular implementation problems apply in some of the new Member States, where the social partners have little experience of autonomous negotiations, and where social dialogue structures are underdeveloped and the coverage of dialogue is low. The latter problem also applies in some other Member States, as does the challenge that not all the national member organisations of the EU-level social partners have a direct collective bargaining role or authority over their affiliates.

Key achievements: process-oriented texts

Frameworks of actions

The cross-industry social partners have signed two frameworks of action:

- A framework of action for the lifelong development of competencies and qualifications, signed in February 2002, which identified four priorities for action: identification and anticipation of competencies and qualifications needs; recognition and validation of competencies and qualifications; information, support and guidance; and mobilisation of resources. These priorities were to be implemented at national level through dialogue and partnership, over a four-year timeframe.
- A framework of action on gender equality, agreed in March 2005, which identified the challenges in this area and set out four priorities for national social partner action: addressing gender roles; promoting women in decision-making; supporting work-life balance; and tackling the gender pay gap. Implementation was to occur over a five-year period.

The cross-industry partners assessed the implementation of the two frameworks on an

annual basis and then at the end of their timeframes, in 2006 and 2009 respectively. In both cases they concluded that the frameworks had delivered a 'clear message' and a 'sense of focus' to national social partners in most countries. They had created impetus, or acted as an instrument for change, supported pre-existing social partner actions, and helped bring about new concrete actions. The frameworks contributed to a range of developments at European, national, sectoral and company levels. The evaluations indicate that the impact of the frameworks was somewhat uneven across sectors and countries (notably, there were difficulties in assessing follow-up in some new Member States).

The 'framework of action' approach has not yet been taken up significantly at sectoral level. Rare examples are: a framework on recruitment and retention adopted by the social partners in hospitals and healthcare (EPSU and HOSPEEM) in December 2010, with the aim of addressing current and future staff shortages and skills needs, and a framework of action on gender equality, adopted by the social partners in the audiovisual sector in October 2011.

Guidelines and codes of conduct

Agreement on guidelines and codes of conduct is confined to the sectoral social partners, with no cross-industry examples to date.

Guidelines have been agreed in 16 sectors, with agriculture, electricity, telecommunications and commerce being particularly active in producing this type of text. One example is the joint declaration signed by the telecommunications sectoral partners (ETNO and UNI Europa) in February 2011, promoting a set of good practice guidelines entitled 'Good Work — Good Health: Improving the mental wellbeing of workers within the telecommunications sector'.

One of the most notable multi-sectoral social dialogue initiatives has taken the form of guidelines. In July 2010, the EU-level partners in five sectors — local/regional government, healthcare, commerce, private security and education — agreed guidelines on tackling third-party violence and harassment related to work. The guidelines promote the introduction at all workplaces of a 'results-oriented policy' on this problem, and identify practical

steps to reduce, prevent and mitigate violence and harassment.

The procedures for implementing and following up guidelines vary considerably in their scope, ranging from merely encouraging members to observe the guidelines, to setting out a specific staged implementation and evaluation procedure.

Codes of conduct are also a strictly sectoral instrument, and less common than guidelines. They have been signed in hospitals, private security, the sugar industry, woodworking, hairdressing, footwear (two examples), leather/tanning, commerce and textiles/clothing. Most codes are wide-ranging and deal with various aspects of employment standards or corporate social responsibility (for example, a code of conduct and ethics for private security signed in July 2003). A few codes deal with specific issues, such as ethical cross-border recruitment and retention in hospitals (2008).

Typically, codes of conduct commit their signatories to implement them through their national member organisations, and provide for reporting and evaluation of outcomes (generally on an annual basis).

Policy orientations

The cross-industry social partners have agreed two joint texts classified as policy orientations:

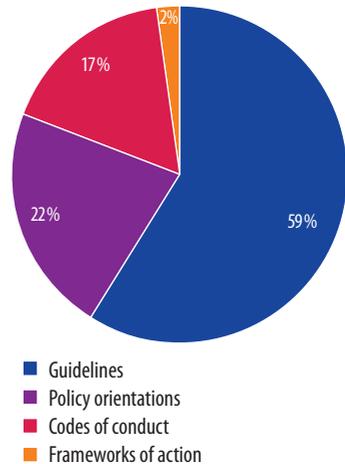
- In October 2003, the partners agreed 'orientations for reference in managing change and its social consequences', based on the lessons learnt from a number of case studies. This document identifies factors that can help prevent or mitigate restructuring's negative employment and social effects.
- In April 2005, the partners agreed a text entitled 'Lessons learned on European Works Councils', which identified factors that help in the efficient functioning of EWCs and problems that can arise.

Neither of these texts made clear their exact status and expected impact, or contained explicit provisions on implementation or follow-up.

At sectoral level, EU-level policy orientations have been agreed in insurance, electricity (two cases), telecommunications, railways (two examples), contract catering, construction, postal services, hospitality, cleaning, commerce and the sugar industry. Some contain broad orientations on business conduct and corporate social responsibility (CSR), such as texts dealing with

CSR in commerce (2003), hospitality (2004), postal services (2005), contract catering (2007), telecommunications (2007) and electricity (2007). Others provide orientations on specific themes, such as a January 2006 joint recommendation on the prevention of occupational stress in the construction sector. Sectoral policy orientations generally provide for implementation, monitoring and follow-up in varying degrees of detail.

Figure 3. Process-oriented texts agreed at sectoral level, by type



Key achievements: Joint opinions/declarations and tools

Joint opinions

Joint opinions, generally aimed at the EU institutions and/or

national public authorities, are by far the predominant output of the EU-level social dialogue (see Figure 4).

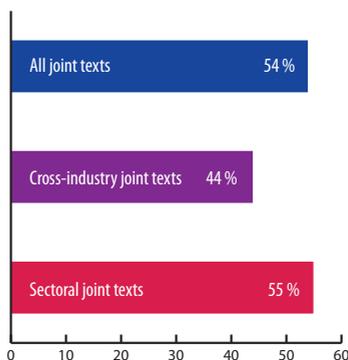
The 30 joint opinions agreed at cross-industry level represent the social partners' contributions to various EU debates and policies, delivered at the request of the EU institutions or at their own initiative. Around a third provides the social partners' input into the EU's overall employment and/or economic strategy. About a fifth relate to the arrangements for EU-level social dialogue, the role of the social partners, or other institutional matters (such as treaty changes). The remaining opinions deal with specific policies or initiatives — such as EU vocational training programmes — or specific themes, such as preventing racial discrimination, or training.

At sector level, joint opinions are the dominant social dialogue output. They have been agreed in all sectors with an SSDC, except a small number of those with very recently launched dialogues. They are particularly numerous in sea fisheries, telecommunications, railways, civil aviation, agriculture and road transport. Sectoral joint opinions primarily deal with economic and/

or sectoral issues, or the social aspects of EU policies. Beyond these themes, the specific topics most commonly addressed are employment, working conditions, health and safety, training, sustainable development and social dialogue.

By their nature, joint opinions do not require specific implementation or follow-up, as they essentially serve to express views and provide input. Their impact is not quantifiable, as their influence on relevant EU or national policies cannot readily be measured.

Figure 4. Joint opinions as a proportion of EU-level joint texts



Declarations

Declarations essentially set out what the signatories plan to do in a specific area. The cross-industry partners have

agreed 10 of these texts. They include the partners' own work programmes, their contribution to the 2001 Laeken European Council (in which they set out their plans for a more autonomous dialogue — see p. 39), and a number of declarations on how the partners will contribute to specific EU initiatives or policy areas, such as the European year of people with disabilities, the European employment strategy, and promoting social dialogue in candidate countries. The evidence suggests that the cross-industry social partners have, by and large, taken the action specified in their declarations.

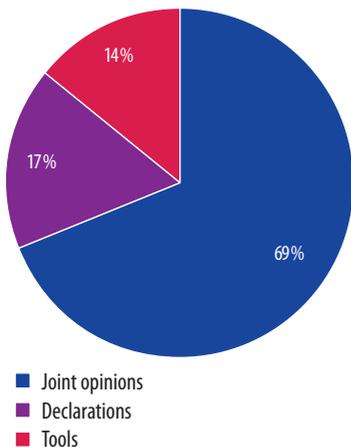
Declarations have been signed in the great majority of sectors with a social dialogue. The chemicals, commerce, electricity, cleaning and telecommunications sectors appear to be particularly attached to this form of text. The most common areas for social partner action are training/lifelong learning, health and safety and social dialogue. For instance, in December 2009, the temporary agency work social partners (Eurociett and Uni Europa) issued a declaration on joint actions to facilitate the upgrading of skills for agency workers.

Tools

The development of tools providing practical guidance and advice is mainly a sectoral practice, with only two cross-industry examples. These are a 1999 compendium of examples of good practice in the employment of people with disabilities, and a 2000 compendium of social partner Initiatives relating to the EU's Employment Guidelines.

At sectoral level, tools are found in a somewhat narrower range of sectors than is the case of joint opinions and declarations, but have been developed in over half of the sectors with a dialogue, often taking the form of toolkits, guides and collections of best practice, based on EU-funded projects. The sectors that have gone furthest with this approach are postal services, private security and telecommunications. The key themes are health and safety and training/lifelong learning. An example is a toolkit on preventing third-party violence in commerce produced by the sectoral social partners (Euro-Commerce and UNI Europa) in October 2009, providing practical guidance for companies, employees and national social partners.

Figure 5. Joint opinions/ declarations and tools agreed at sectoral level, by type



Failures, problems and tensions

While EU-level social dialogue has produced a number of agreements, guidelines and other results across industries as well as in specific sectors, and has made a difference at both European and national levels, it has by no means been a smooth, uninterrupted or uncontentious process. The participants often have very different aims and expectations, leading to disagreements and deadlocks, while various dialogue structures have failed and been discarded over the years. For example, the tri-

partite Standing Committee on Employment did not achieve most of its original ambitions, and came to be seen as a largely irrelevant forum for the ritual airing of positions, before it was finally abolished (see Box 4).

The bipartite cross-industry dialogue has experienced mixed fortunes. The autonomous track of the dialogue has had periods of reduced activity, with relatively little on the agenda and few joint texts produced. The social partners structured their dialogue through three work programmes from 2003 to 2010, but arguably these became less ambitious over time. There has been a gap since the third programme ended, though a programme for 2012-2014 is expected to be agreed in the first quarter of 2012. Though most of the actions specified in the programmes were carried out, some were not, such as a joint opinion on undeclared work listed in the 2003-2005 programme. Some negotiations have failed, such as those in 2009 over a joint declaration on measures to address the economic crisis (see p. 83).

With regard to the cross-industry social dialogue prompted by Commission consultations, issues on which the social partners

have been unwilling or unable to negotiate far outnumber the successes represented by agreements. To take a few examples, the social partners did not negotiate following consultations on matters such as sexual harassment (1996-1997), national-level employee information and consultation (1997) (though, in this case, the partners did at least explore talks), employers' insolvency (2000) or transferability of occupational pensions (2002-2003). Negotiations opened but failed on temporary agency work in 2000-2001.

On several issues, the Commission made repeated efforts over a lengthy period to get the social partners to negotiate, but this did not achieve an agreement or other substantive joint text. This was the case with EWCs, corporate restructuring and possible revision of the Working Time Directive (2003/88/EC). However, the social partners did finally agree a 'joint advice' on amendments to the EWCs Directive in 2008 (see p.39), and in December 2011 they launched negotiations on working time. A new consultation is scheduled on restructuring.

The cross-industry partners' responses to Article 154 consultations are conditioned by their differing views and motivations. Put broadly, the ETUC

is in favour of the creation of legally binding new EU-wide rights and protection for workers, while the employers' bodies, especially BusinessEurope, generally oppose new EU regulation of employment rights, believing that this should occur at national level, if such matters must be the subject of legislation at all. When the Commission consults on possible action and legislative proposals seem imminent, employers may be willing to negotiate with the ETUC on the issue concerned, as this option gives them greater influence on the outcome— the negotiation of an agreement is seen as the 'lesser of two evils'. However, the ETUC, although keen to have a direct influence and underline the social partners' bargaining autonomy, is unlikely to sign an agreement that provides significantly fewer benefits for its members than EU legislation would. These tensions mean that genuine negotiations and agreements can occur only relatively rarely, and when all the correct circumstances are in place.

The sectoral social dialogue has also experienced difficulties. Like the SCE, the early sectoral dialogue structures tended to become over-institutionalised and ineffective, and they were replaced in 1998 by the harmonised new SSDCs. The overall

picture of sectoral structures over the past 50 or more years is that their activity tends to vary considerably over time, with periods of dormancy and revival, generally in line with the development of EU policies affecting their industries, but also because of disputes between the social partners.

SSDCs can experience problems of representativeness caused by the changing composition of their sectors. The member organisations of the social partners in some countries can lack the capacity to contribute fully

to the dialogue, or to deliver agreed outcomes. Because most EU-level sectoral social partner organisations have only a limited capacity to influence their national affiliates, follow-up and implementation of outcomes can be a problem. In some sectors, where large multinational companies predominate (such as steel, telecommunications, chemicals and civil aviation), it can be difficult to negotiate agreements at EU sectoral level, because employers and workers' representatives prefer to negotiate at company level, such as within EWCs.



Message from the ILO

Juan Somavia,

Director-General, International Labour Organisation (ILO)

Excerpts from an address to the European Parliament, Strasbourg, 14 September 2011

After decades of social struggle at the end of the 19th century and beginning of the 20th century, [the founders of the International Labour Organisation] conceived a tripartite institution to promote social justice in order to cultivate peace through international labour standards.

They believed that labour is not a commodity; that poverty anywhere is a threat to prosperity everywhere.

Our founders were also practical. They understood that bringing together on an equal footing, governments and representatives of workers and employers was the way to achieve results fair to all.

They invented international social dialogue and gave strong support and space to workers' organisations and collective bargaining.

The EU and ILO share the premise that lasting peace can only be secured through regional and international cooperation for social justice, with people's needs guiding policy. ...

Social dialogue [brings] together governments, employers and workers, to produce, through consensus building, policies that are legitimate, effective and equitable. ... Within the European Union, you are facing major employment and social challenges, of working poverty, precarious work, low pay, social exclusion, long term unemployment. ... Social dialogue [is] a facilitator of a well-functioning real economy. Genuine dialogue with recognised social partners is fundamental to exploring real economy options, in real enterprises, in promoting decent work and respecting the autonomy of collective bargaining.

Rebalancing the world economy ... requires more attention to employment, social protection and social dialogue. ... The weight of the European Union makes it a key player in managing globalisation. The EU must fully use its capacity to defend, sustain and advance the European economic and social model to make globalisation fairer.

http://www.ilo.org/global/about-the-ilo/press-and-media-centre/statements-and-speeches/WCMS_162828/lang--en/index.htm



Chapter 5

Social dialogue and the crisis

The social dialogue does not exist in a vacuum. It is shaped by its wider institutional, political, economic and social environment. It is clear that since 2008, the environment has been dominated by the financial, economic and debt crisis that has racked Europe. Dealing with the crisis has been a major theme in social dialogue in many Member States, and the process has illustrated very clearly the varying nature and capacities of national dialogue systems. At EU level, though, the social dialogue's response to the crisis has arguably been less marked.

The response of national social dialogue

Across the Member States, the social partners have expressed their views on the crisis to the public authorities and coordinated their responses through the various national advisory and consultative processes (see p. 51). More concretely, during the depths of the crisis between 2008 and 2010, there were efforts in at least 16 Member States to reach bipartite or tripartite national cross-industry agree-

ments on a package of measures aimed at addressing aspects of the economic crisis.

Some form of agreement was reached in 11 countries — Belgium, Bulgaria, the Czech Republic, Estonia, France, Latvia, Lithuania, the Netherlands, Poland, Slovakia and Spain (in the case of a bipartite agreement) (see Box 14 for examples). In the case of the Baltic states, the Czech Republic and Poland, these agreements represented a novel development in national social dialogue. The agreements dealt with issues such as short-time work, wage moderation, employment-related tax/social security measures, employment schemes and assistance for unemployed people, workplace flexibility and training/lifelong learning.

In countries, such as Austria, Denmark, Germany and Slovenia, where no anti-crisis agreements were reached, the social partners were nevertheless heavily involved in the specific area of amending existing short-time working schemes (whereby workers temporarily reduce their

working time, with some compensation for loss of pay, as an alternative to redundancy) or introducing new ones.

However, existing cross-industry social dialogue arrangements were not always able to deal with the crisis. Talks over crisis-response agreements were unsuccessful in Finland, Hungary, Ireland, Luxembourg, Slovenia and Spain (in the case of a tripartite agreement). Indeed, in Ireland, Slovenia and Spain, the stresses caused by the crisis, and differences over how to react to it, led to a collapse (at least temporary) of long-standing cross-industry bipartite/tripartite arrangements. Tripartite arrangements also came under severe pressure in countries Bulgaria.

There was little or no joint cross-industry social partner response to the crisis in countries such as Cyprus, Greece, Malta, Portugal, Romania, Sweden and the UK.

The national social dialogue at sector level (where it exists — see p. 10) has also played a role in responding to the crisis. Between 2008 and 2010, there were examples of specific sectoral agreements on matters such as short-time work, or the inclusion, in regular collective agreements, of crisis-response measures such as support for

redundant workers, or allowing greater flexibility and/or decentralisation in pay setting. These sectoral responses were patchy, in both national and sectoral terms. Agreements were largely restricted to Belgium, Denmark, France, Finland, Germany, Italy, the Netherlands and Sweden, and notably absent in many of the Member States that joined the EU in 2004 and 2007. Agreements were also much more common in the manufacturing industry — and especially metalworking — than in the services sector.

An example of a sectoral response was an agreement in March 2009 covering all of the Swedish manufacturing sector. This deal temporarily allowed for the introduction of short-time working, which is normally not permitted in Sweden, to prevent redundancies during the downturn. The use of short-time work required a local agreement. The employees affected received at least 80% of normal pay, and the local agreements could provide for training during the unworked hours.

On a general level, collective bargaining, and social dialogue at all levels and across Europe, has reacted to the crisis with widespread moderation in pay settlements.

Box 14. Examples of cross-industry crisis-response agreements, 2008-2010

- The Belgian social partners responded to the crisis in their cross-industry collective agreement for 2009-2010 (such agreements are normally signed every two years), which aimed to achieve a balance among companies' competitiveness, workers' purchasing power and employment levels. It included moderate increases in purchasing power, reductions in taxation of income from night and overtime work, increases in short-time work benefits and tax reductions to encourage employers to recruit long-term unemployed people.
- The Bulgarian government and social partners reached a tripartite agreement on a wide-ranging package of anti-crisis measures in March 2010. Employment-related measures included: a mechanism for increasing the minimum wage; increases in unemployment benefits; schemes to support employment in companies facing difficulties; employment subsidies; and promotion of labour mobility.
- Between February and April 2010, the Czech social partners and government agreed on a set of short-term crisis-response measures. These included training programmes, possible greater tax harmonisation between employees and the self-employed, measures to address misuse of unemployment benefits, and the possibility of introducing a new short-time work scheme.
- A tripartite accord reached in Estonia in March 2009 set out principles for maintaining employment levels, for example through lifelong learning and flexible employment, and by providing more effective assistance for unemployed people.
- In July 2009, the French social partners reached a national agreement on managing the employment consequences of the crisis. This included: the extension of the statutory short-time work scheme to new groups of employees; an increase in the duration of short-time benefit; a framework for 'employee leasing' between companies; the promotion

of employees' geographical and occupational mobility; improved schemes to help redundant workers back into employment; and assistance targeted at groups such as the long-term unemployed.

- A tripartite accord concluded in June 2009 in Latvia, with the aim of reducing the public sector deficit provided for both revenue-raising measures and public expenditure cuts, including reductions in the public sector pay bill and in pensions and benefits
- A tripartite national agreement on economic and social policies during the downturn, signed in Lithuania in October 2009, covered areas such as tax, public spending, public sector pay, cuts in social security benefits, public sector reform, economic stimulus measures, education and training, and combating the illegal economy.
- In October 2008, the Dutch government and social partners reached wide-ranging agreement on issues such as moderate wage demands, reduced unemployment insurance contributions, reform of dismissals law, assistance for low-paid and vulnerable groups, job creation and training. In March 2009, the bipartite Labour Foundation reached an agreement on dealing with the crisis, covering the 2009 to 2010 period, which promoted employment, wage moderation, training, assistance for redundant workers and flexible employment.
- In March 2009, the Polish social partners reached a bipartite agreement on a package of anti-crisis measures, including greater working time flexibility, the introduction of a short-time working scheme and limits on fixed-term employment, as well as the minimum wage, social security and tax measures.

The response of EU-level social dialogue

At cross-industry level, while the social partners have contributed to the EU debate on tackling the crisis, notably through the Tripartite Social Summit (see Box 10), their joint response has been limited. In 2009, the social partners discussed a joint declaration on measures to address the crisis, but failed to agree owing to major differences in the views on the causes of the crisis and the appropriate response. However, they did manage to find a degree of consensus on some aspects of dealing with the crisis in a June 2010 joint statement on the EU's new Europe 2020 strategy (see p. 87). For example, the statement:

- stressed that the crisis has heightened the urgency of tackling the long-term challenges facing the EU — such as globalisation, an ageing population and the transition towards a low-carbon economy — through a coherent and ambitious policy agenda;
- called for a strategy to put Europe on a sustained growth path and ensure a rapid return to more and better jobs, while ensuring fiscal sustainability;
- underlined the importance of drawing the correct lessons from the crisis, ensuring that past mistakes are not repeated — this implies reforming the

global financial system, facing the job crisis and restoring and improving growth dynamics;

- argued that Europe 2020 should strike the right balance between measures to address the employment impact of the crisis, and reforms aimed at addressing medium- and long-term labour market challenges, notably through modernisation and flexicurity measures; and
- stated that wage policies, autonomously set by the social partners, should ensure that real wage developments are consistent with productivity trends, while non-wage labour costs are restrained where appropriate in order to support labour demand

Moreover, the cross-industry partners' March 2010 agreement on inclusive labour markets (see p. 64), while not conceived as a crisis response, includes provisions relevant to addressing the employment effects of the crisis, including measures to assist young people into employment. As the text states: 'The challenging economic and social climate in which this framework agreement has been negotiated in 2008-2009 further strengthens the impetus for social partners to work together to promote inclusive labour markets, to maximise the full potential of

Europe's labour force and to increase employment rates and to improve job quality, including through training and skills development.'

At sector level, some dialogue committees have agreed joint texts highlighting the effects on their industry, and calling on the EU and national authorities for measures to mitigate them (see Box 15 for examples). More substantive responses have been largely absent — one rare example is a March 2009 joint declaration from the chemicals social partners (ECEG and EMCEF) on (temporary) lay-offs and short-time work, and similar measures aimed at avoiding redundancies. As well as calling on the EU and national authorities to provide financial and other support for businesses and workforces, the declaration laid down some principles for lower-level social partners, recommending that:

- lay-offs and short-time working should be introduced only after consultation with the workforce and their representatives;

- where lay-offs and short-time working occur, every effort should be made to use this time for improving employees' skills through training and education; and
- training that takes place during lay-offs and short-time work should be accredited to ensure that intrinsic skills are maintained so that, when the economic situation improves, the sector does not lose vital human resources for the future.

The capacity for the EU-level social dialogue to find ways of tackling some aspects of the crisis is to some extent unknown, but its potential does not yet seem to have been fully explored. It may be that, at times of grave economic difficulty, trade unions and employers tend to concentrate their efforts at national and company levels, where the struggle for jobs and economic survival is at its sharpest and most immediate, and often in a context of pressure on national dialogue arrangements.

Box 15. EU-level sectoral social dialogue joint statements on the crisis

- A 'joint reaction' to the economic crisis issued in December 2008 by the commerce sector partners (EuroCommerce and UNI Europa) called for action to sustain consumer purchasing power, provide access to affordable credit, maintain employment and boost training.
- The local and regional government social partners (CEMR and EPSU) sent a joint message to a European Council meeting in March 2009, seeking adequate financial resources to meet heightened demands, and underlining the importance of maintaining employment in the sector. They issued a further joint statement, reiterating their positions on the economic crisis to a European Council meeting in February 2010.
- In May 2009, the road transport social partners (ETF and IRU) made a joint statement on the impact of the crisis on their sector. They proposed a six-point recovery plan for construction, including access to credit, investment and EU-wide use of short-time working schemes.
- The social partners in the live performance sector (EAEA and Pearle) made a joint statement in May 2009, calling for measures to restore consumer confidence, improve access to finance and credit for SMEs, sustain public funding and facilitate cross-border mobility.
- The construction social partners (EFBWW and FIEC) issued a joint declaration on the global economic crisis and its consequences for the sector in June 2009. It called on the EU and national authorities to take a number of measures to help the industry, such as accelerating public investment. The partners issued a further joint appeal in January 2010, asking the EU and Member States to step up action to foster the development of a sustainable construction industry.
- Other sectoral committees adopting joint texts relating to the crisis include those in woodworking, furniture, inland waterways and chemicals, while relevant discussions have also occurred in industries such as textiles and clothing, tanning and leather, and footwear.



— SWOT: STRENGTHS WEAKNESSES OPPORTUNITIES THREATS
— VALUE CHAIN: THE INTERPLAY OF WORK/ACTIVITIES



Future developments and challenges The social partners and Europe 2020

Fundamental to the EU's approach for getting through the crisis is the Europe 2020 growth strategy, adopted in 2010. The aim is to create a smart, sustainable and inclusive European economy, with high levels of employment, productivity and social cohesion. The strategy contains targets on employment (seeking an EU-wide employment rate of 75 % by 2020), research and development, greenhouse gas emissions and energy, education and poverty reduction. The Member States have adopted their own national targets based on the EU targets, and national reform programmes to implement the strategy. The delivery of Europe 2020 is also supported by seven EU flagship initiatives, such as the 'Agenda for New Skills and Jobs', and the 'Youth on the Move' initiative aimed at improving the education and employment of young people.

The involvement of the social partners is seen by the European Commission as a key element of implementing Europe 2020. This is most clearly set out in the Agenda for New Skills and Jobs.

The Agenda for New Skills and Jobs is a package of measures aimed at modernising labour markets, with a view to raising employment levels, and helping people to acquire new skills. This should enable the workforce to adapt to new conditions and potential career shifts, reduce unemployment and raise labour productivity. To implement the Agenda, the Commission is seeking to strengthen the capacity of social partners and make full use of the problem-solving potential of social dialogue at all levels (including the EU level). The Commission has involved the EU-level social partners in areas such as defining and implementing further flexibility measures, and implementing lifelong learning principles (including consultation of the partners on developing an initiative of their own in this area). It has also emphasised the role of social partners in delivering the Youth Opportunities Initiative launched in December 2011, e.g. through building up workplace learning schemes. The Commission has established a 'Tripartite Social Forum' specifically to enable the EU-level social partners

to participate in the implementation of the Agenda for New Skills and Jobs, and of the Europe 2020 Strategy more generally.

The cross-industry social partners made a joint statement on the Europe 2020 strategy in June 2010. The statement recommended policy priorities for the EU and Member States in areas such as employment, macro-economic policy, public finances, investment, taxation, public services, social security, education, training and research. It called for stronger involvement of the social partners at all levels in the design and monitoring of European and national reform strategies, and support in developing the social partners' capacity where needed. In particular, the social partners need to contribute actively to the design and implementation of flexicurity policies.

Flexicurity is an approach to employment policy that combines flexibility in labour markets, work organisation and employment relations with employment and social security. The cross-industry social partners made a major contribution (through a joint analysis of European labour market challenges) to EU-wide principles on flexicurity, adopted by the Council in 2007, which guide EU employment policy.

As part of their 2009-2010 work programme, the cross-industry partners produced a joint study on the role of social partners in implementation of these principles. In November 2011, the Commission and social partners took stock of the implementation of flexicurity policies at a stakeholder conference. It is counting on the social partners' contribution to and support for future action in this area, in the context of Europe 2020 and of the Employment Package to be presented by the Commission in 2012.

With regard to the environmental strand of Europe 2020, the cross-industry social partners have already conducted a first joint study on the employment consequences of climate change, and their work on this topic is likely to continue, boosted by the creation of a consultation mechanism on climate change involving various Commission departments.

A robust dialogue that continues to survive setbacks

Since its inception over 50 years ago, EU-level social dialogue has grown enormously in its scope and in its importance in EU decision- and policy-making. It is now deeply embedded in the

Union's treaties and institutional arrangements. It has resulted in nine Directives and a similar number of agreements implemented by the social partners themselves, bringing concrete benefits to millions of workers across Europe. It has also produced a wealth of other instruments that have helped to disseminate best practice and high standards across Europe. The dialogue has enabled the voices of Europe's workers and employers to be heard in the crucial debates over the EU's development and future. Sectoral dialogue has spread to industries employing three-quarters of the EU workforce, and made a significant contribution to the development of many sector-specific EU policies.

However, the growth and strengthening of social dialogue has not been a smooth or linear process. Over the years, as well as successes, advances and periods of intense joint work, it has known lulls in activity, failures, deadlocks and crises. This uneven progress has resulted from a complex and ever-changing set of factors, including the political and economic environment, the differing priorities and objectives of employers' and workers' representatives, and the EU institutions' agendas and approaches. Another key factor is that the

extent to which national trade unions and employers' organisations have 'invested' at the European level has varied over time, and there have been periods when their main focus has been at the national level.

At the time of writing, the EU-level social dialogue at cross-industry level is in a transitional phase. With regard to autonomous dialogue, the 2009-2010 work programme was arguably somewhat less ambitious than its predecessors, though it has resulted in initiatives such as the framework agreement on inclusive labour markets (see p. 64), joint studies on the employment consequences of climate change and on social partners' role in the implementation of the EU's flexibility principles, a joint report on social dialogue over the last 20 years, and a joint implementation report on the 2007 agreement on work-related harassment and violence. Against a background that included significant internal changes in the ETUC, these joint outcomes should not be underestimated. Following a break in the series of work programmes in 2011, a programme for 2012-2014 is expected to be agreed in the first quarter of 2012.

With regard to cross-industry negotiations in response to Article 154 consultations, there

were signs of renewed activity in 2011, after something of a lull since 2009. Following the failure of the Council and the European Parliament to agree on a revision of the Working Time Directive, the Commission consulted the social partners as to whether they wished to open negotiations. The partners announced that negotiations were to start in December 2011.

Experience indicates that the social dialogue is robust enough to survive periods of relative inactivity and setbacks. Where dialogue fails on a specific issue, the process continues nevertheless. Topics can even return to the agenda after an earlier failure of dialogue and, in more propitious circumstances, the social partners can make a meaningful contribution the second or even third time around (an example is EWCs and, perhaps, working time). The influence that the EU-level dialogue affords the social partners is too important to them to let it falter for too long.

Major challenges

Challenges for the future include the following:

- The link between the EU and national levels of social dialogue needs to be strengthened. Evidence suggests that there is a close relationship

between the effectiveness of dialogue at the two levels, and that each influences the other.

- Social partner capacity and the social dialogue structure in some countries are, and continue to be, weak, especially in Central and Eastern Europe, making the implementation of autonomous agreements and process-oriented texts uneven across the EU and unsatisfactory in some Member States. Implementation of such instruments can also depend heavily on whether they fit with the agendas of national governments.
- The link between the cross-industry and sectoral dialogue is relatively weak, and links between dialogues in different sectors, while they exist, are underdeveloped. Strengthening these links could make the dialogue more coherent and enhance its impact.
- The outcomes of EU-level social dialogue are not always well known or understood at national and company level.
- Some social partners are concerned that recent developments are weakening the role of social dialogue in policy- and decision-making (according to the findings of research into national social partner views on the social dialogue, commissioned by the EU-level cross-industry partners in

2011). In their view, the cross-industry partners should be consulted not only on employment and social issues, but also on an increasing range of EU policy proposals with a potential employment impact, while the Commission is increasingly launching wide-ranging consultations of all stakeholders.

- The social partners may have to find ways of tackling more contentious issues in the future if the dialogue is to retain its influence. Related to this, the European-level organisations may have to take a more active role in engaging their respective memberships.



Interview with the Council Presidency

Jolanta Fedak

Minister of Labour and Social Affairs of Poland (2007-2011)

From the point of view of From the Council Presidency, and as a Polish Minister, how do you see European Social Dialogue?

Poland presides in the Council at a difficult time of crisis, which has an especially negative impact on the labour market. It must be said that at the times of crisis, it is much more difficult to win trust and come to an agreement. It does not, however, mean that the social dialogue is useless as regards solving the problems caused by the crisis. In order to cope with the new challenges we should use all forms and platforms of the dialogue. At the European level, this relates to both the bilateral dialogue of European Social Partners conducted on the basis of Articles 154 and 155 of the Treaty, as well as the trilateral dialogue.

The latter can be exemplified by the Tripartite Social Summit for Growth and Employment, which constitutes a forum for exchange of views between the European social partners and institutions of the European Union. During the Polish Presidency, an autumn meeting of the Summit was held on 17 October 2011 in Brussels. The leading topic of the meeting covered: 'Enhancing trust and social dialogue to sustain (economic) recovery and structural change.'

Poland recognises the role and the need to enhance and promote the European social dialogue as one of the tools to fight the crisis. This is because we have our own experience within the scope of anti-crisis measures negotiated by social partners in the Tripartite Commission for Social and Economic Affairs, which entered into force on the basis of the so-called anti-crisis act. Thus we should support initiatives — both at the national and European level — that aim at establishing an effective social dialogue between the employers and the representatives of the employees, as well as in business entities of supra-national structure, such as establishment of the European Works Councils. Therefore, considering the issue from the Polish point

of view, we have to emphasise the need to create conditions, and, above all, the atmosphere of mutual trust, in order for the parties to the dialogue to choose the right for them form of the dialogue and determine the thematic scope of the discussions.

The priorities of the Polish Presidency in the area of employment and social affairs entitled 'Solidarity between generations — towards the demographic future of Europe' covers the issue of 'The role of social dialogue in the search for solutions to demographic challenges'. Another area of cooperation with the social partners and other stakeholders includes implementation of the Europe 2020 strategy through the so-called flagship initiatives and National Reform Programmes — given the support to the introduction of a new element of economic coordination, the so-called 'European semester'.

Do you think there is a role for European Social Partners in implementing the Europe 2020 strategy? In what sense?

The Europe 2020 strategy, which is a coherent platform for actions in the area of economy and social policy, requires — apart from the new economic management with the use of the so-called European semester — an intensive and constructive social dialogue, both at the national and European levels.

This mainly refers to the priority area of the strategy, under which human resources play the most significant role, i.e. establishment of a knowledge-based economy based on high and productive employment, encouraging socio-economic cohesion.

At the current times of economic crisis and growing unemployment, and increasing poverty related thereto underlying the dramatic social unrest, this dialogue is especially expected and needed.

Being a tool for developing and introducing by way of framework agreements, solutions pertaining to the labour market the European Social Dialogue constitutes a significant support in designing, implementation, monitoring and assessment at the EU level and, consequently, also the national level, of the undertaking, including the legislative one to implement the initiative of the Europe 2020

strategy within the scope of topics related to the labour market. This includes such issues as: labour law, social security law, education and professional training (lifelong learning), professional activation programmes, monitoring of the labour market supply and demand for skills, mobility on the labour market, safety and hygiene at work, corporate social responsibility, age management. In these areas, there are still barriers to employment growth and boosting the functioning of the EU labour markets. They can and should be removed with the use of, for example, solutions included in the framework agreements developed as a result of a compromise between the European Social Partners.

Consequently these proposals, which are promoted by the national trade unions and employers' organisations in individual EU countries and implemented to the national legislation, can be introduced into practice by the National Reform Programmes updated annually in line with the guidelines of the European Commission.

It needs to be remembered that the majority of the listed issues, remaining within the range of the European social dialogue is important for the implementation of the most efficient of the past models of the EU labour market combining social safety with employment flexibility, the so-called flexicurity. Because the flexicurity concept remains at the centre of the European Employment Strategy — which at the times of aging of the workforce is the crucial element for the success of achieving the objectives of the strategy — the significance of the European social partners in the implementation of the Europe 2020 strategy cannot be overestimated.

As a Minister of Labour and Social Policy, I have to stress that it is necessary for the EU institutions and governments of the Member States to be politically determined to cooperate with the European social partners in order for them to be able to efficiently use their potential to implement the economic and social renewal of the European Union. Due to its social representativeness, the European Social Dialogue should be recognised by both the employers, employees and governments of the Member States as a credible and based on reality source of knowledge and initiatives within the scope of the labour market, and an element ensuring shaping of the EU socio-economic policy in the direction guaranteeing sustainable development.

Do you believe that social partners should make the most of their capacity to negotiate agreements which can be implemented by Directive in the field of employment and social policy, in line with the procedure set out in Articles 154 and 155 of the Treaty?

When answering the question one should start by pointing out the fact that this year marks the 20th anniversary of signing the agreement by the European Social Partners, which on the basis of the Maastricht Protocol on Social Policy became the basis for negotiations aiming at concluding European agreements. The agreement of 1991 constitutes the best example of efficient European dialogue. As a result of the active attitude of European social partners, the dialogue conducted by them was placed in the centre of the decision-making process in the area of employment and social policy and, what is more, it obtained quasi-legislative power.

The European Commission was obliged to consult with the European social partners on the initiatives within the scope of employment and social affairs and, moreover, they acquired the recognition of the right to autonomous negotiation of normative European agreements. These agreements can be subsequently transferred to the legal orders of individual Member States, in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 153, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission. In TFEU the legal basis for this dialogue is provided for in Articles 154 and 155.

This dialogue results — in the supra-sectoral dimension — in three agreements, which were transformed into Directives, i.e. on parental leave of 1995, part-time employment of 1997, fixed-term employment contracts of 1999, as well as four agreements that were implemented by the actions of social partners in the Member States, i.e. the agreement on telework of 2002, agreement concerning work-related stress of 2004, the agreement concerning violence and harassment at work of 2007, the agreement concerning inclusive labour market of 2010.

The achievement of the European social dialogue conducted in individual sectors is also important. Due to system support of the

Commission already 40 European Sectoral Dialogue Committees were established (based on the Commission Decision 98/500/EC).

The increasingly more complicated economic and social processes both on the macro and micro level, e.g. within the scope of labour market policy, constitute a serious challenge for the social partners. They should confirm their exceptional role in the EU decision-making process in the areas for which they are co-responsible.

At times of crisis, it is much more difficult to find an agreement between parties to a dialogue, which owing to their nature have various interests. This does not, however, mean desistance from cooperation between social partners on individual issues. The examples of action plans established by the European social partners for subsequent years, or in defined areas of joint interest, provide for the developed skill of focusing on the aspects that unite the parties. Thus, not only the so-called hard effects of the European social dialogue are important, but also the soft actions such as declarations, opinions, positions, recommendations, joint actions. They will contribute to the establishment of mutual trust and the joint search for compromise solutions, ensuring stable economic development as well as a safe environment and high level of employment.

Do you think that European social dialogue can provide a model and an encouragement for social dialogue in all Member States, including those where it is perhaps less established?

The Polish experience in the establishment of the social dialogue points to the considerable meaning of good practices and models for the development of the dialogue at the national level.

Although Poland already in 1919 was among the founders of the International Labour Organisation, the further historical events deprived our country of the possibility of free socio-economic relations based on international standards.

Poland, just like other countries in the region, started to catch up after 1989, and the efforts to become a member of the Community

resulted in increased interest in the European social dialogue. First of all, the Community legislation was implemented, e.g. pertaining to information and consultations with the employees, as well as the structures of the dialogue were developed.

Another incentive covered the involvement of the representatives of the national organisations of social partners in the works of the tripartite structures of the EU (European Economic and Social Committee or agencies and committees, e.g. European Foundation for the Improvement of Living and Working Conditions, Committee on Free Movement of Persons) or Social Dialogue Committee.

The already gained experience is currently enriched with trainings for social partners implemented under programmes co-financed from the European Social Fund.

What do you think is the future of European social dialogue?

Today it is not easy answer to the question. Since, as was already shown by the history of the European social dialogue development, the directions of this development often change contrary to the general expectations, e.g. the development of inter-branch dialogue in 1990s. On the other hand, recently the greatest activity can be observed in the European sectoral dialogue.

Therefore, it seems to be worthwhile to support the initiatives aimed at increasing the current number of sectoral committees covering with their activity almost 145 million employees. This can be exemplified by the recent actions targeted at establishing three new committees (in the paper, metal and education industries), or the ongoing negotiations (within the scope of: occupational health and safety in the hairdressing sector, transposition of the ILO convention in the fisheries sector and the minimum requirements for contracts for footballers), as well as work on new criteria for the representativeness of social partner organisations.

However, it needs to be remembered that development of the dialogue at the European level results in the need to consider at least the following issues:

- the role of the Council in the process of adopting directives based on agreement of social partners;
- any possible commitments of the Member States to introduce legislative amendments implementing such agreements of the social partners;
- transparency of the agreements of the social partners;
- no obligation to draw up and annex such agreements to the document concerning the impact of the regulation.

Under the crisis conditions, and in relation to the expected restructuring processes, we can observe significant activity of the European Works Councils and other mechanisms of information and consultation with the employees at the supra-regional level.

The European Commission work plan for 2011 includes information on the start of the negotiations with the European social partners concerning a review of the provisions of the Directive 2001/86/EC supplementing the Statute for a European company with regard to the involvement of employees. The Commission points out that any legislative amendments to the Directive will be correlated with the possible amendment of Regulation 2001/2157/EC.

We should also appreciate the initiative of the European Commission concerning the establishment of the experts group on analysing the provisions of Directives: 1998/59/EC (Block Exemptions), 2001/23/EC (transfer), 2002/14/EC (informing and consulting) covering the right to information and consultation.

Annexes

Annex 1: List of Sectoral social dialogue committees

Overview of Social Dialogue Committees

Sectors	European social partners	
	Employees	Employers
Cross-Industry	ETUC	BusinessEurope, UEAPME, CEEP
Agriculture	EFFAT	GEOPA/COPA
Audiovisual	EURO-MEI, EFJ, FIA, FIM	EBU, ACT, AER, CEPI, FIAPF
Banking	UNI europa	EBF-BCESA, ESGB,EACB
Catering	EFFAT	FERCO
Chemical Industry	EMCEF	ECEG
Central Government Administrations	TUNED (EPSU+CESI)	EUPAE
Civil Aviation	ECA, ETF	ACI-Europe, AEA, CANSO, ERA, IACA, IAHA
Commerce	UNI europa	EuroCommerce
Construction	EFBWW	FIEC
Education	ETUCE	EFEE
Electricity	EPSU, EMCEF	Eurelectric
Extractive Industries	EMCEF	APEP, EURACOAL, UEFG, IMA, Euromines
Footwear	ETUF:TCL	CEC
Furniture	EFBWW	UEA, EFIC
Gas	EMCEF, EPSU	EUROGAS
Horeca	EFFAT	Hotrec
Hospitals and Healthcare	EPSU	HOSPSEEM
Industrial Cleaning	UNI europa	EFCI
Inland Waterways	ETF	EBU, ESO
Insurance	UNI europa	CEA, BIPAR, AMICE
Live Performance	EAEA	Pearle
Local and Regional Governments	EPSU	CEMR
Maritime Transport	ETF	ECSA
Metal	EMF	CEEMET
Paper Industry	EMCEF	CEPI
Personal Services	UNI europa	Coiffure EU
Postal Services	UNI europa	PostEurop
Private Security	UNI europa	CoESS
Professional Football	FIFPro	EPFL, ECA
Railways	ETF	CER, EIM
Road Transport	ETF	IRU
Sea Fisheries	ETF	Europêche, COGECA
Shipbuilding	EMF	CESA
Steel	EMF	Eurofer
Sugar	EFFAT	CEFS
Tanning and Leather	ETUF:TCL	COTANCE
Telecommunications	UNI europa	ETNO
Temporary Agency Work	UNI europa	Eurociett
Textile and Clothing	ETUF:TCL	Euratex
Woodworking	EFBWW	CEI-Bois

This list shows the current state of play — it will be regularly updated on the Commission's website <http://ec.europa.eu/social/main.jsp?catId=522&langId=en>

Annex 2: List of European social partners' organisations consulted under Article 154 of the EC Treaty

1. General cross-industry organisations

- BusinessEurope
- European Centre of Enterprises with Public Participation and of Enterprises of General
- Economic Interest (CEEP)
- European Trade Union Confederation (ETUC)

2. Cross-industry organisations representing certain categories of workers or undertakings

- Eurocadres
- European Association of Craft and Small and Medium-Sized Enterprises (UEAPME)
- European Confederation of Executives and Managerial Staff (CEC)

3. Specific organisations

Eurochambres

4. Sectoral organisations representing employers

- Association of Commercial Television in Europe (ACT)
- Airports Council International — Europe (ACI-Europe)
- Association of European Airlines (AEA)
- Association of European Professional Football Leagues (EPFL)
- Association of European Public Postal Operators (PostEurop)
- Association of European Radios (AER)
- Association of Mutual Insurers and Insurance Cooperatives in Europe (AMICE)
- Association of National Organisations of Fishing Enterprises in the EU (EUROPECHE)
- Banking Committee for European Social Affairs (EBF-BCESA)
- Civil Air Navigation Services Association (CANSO)
- Coiffure EU
- Committee of Agricultural Organisations in the European Union (COPA)
- Community of European Railway and Infrastructure Companies (CER)
- Community of European Shipyards' Associations (CESA)
- Confederation of European Paper Industries (CEPI)
- Confederation of National Associations of Tanners and Dressers of the European Community (COTANCE)
- Council of European Employers of the Metal, Engineering and

- Technology-Based Industries (CEEMET)
- Council of European Municipalities and Regions (CEMR)
 - Employers' Group of the Committee of Agricultural Organisations in the European Union (GEOPA)
 - Euracoal
 - Euromines
 - European Aggregates Association (UEPG)
 - European Apparel and Textile Organisation (EURATEX)
 - European Association of Cooperative Banks (EACB)
 - European Association of Potash Producers (APEP)
 - European Banking Federation (FBE)
 - European Barge Union (EBU)
 - European Broadcasting Union (EBU)
 - European Chemical Employers Group (ECEG)
 - European Club Association (ECA)
 - European Community Shipowners Association (ECSA)
 - European Committee of Sugar Manufacturers (CEFS)
 - European Confederation of the Footwear Industry (CEC)
 - European Confederation of Iron and Steel Industries (Eurofer)
 - European Confederation of Private Employment Agencies (Eurociett)
 - European Confederation of Woodworking Industries (CEI-Bois)
 - European Construction Industry Federation (FIEC)
 - European Coordination of Independent Producers (CEPI)
 - European Federation of Cleaning Industries (EFCl)
 - European Federation of Contract Catering Organisations (FERCO)
 - European Federation of Education Employers (EFEE)
 - European Federation of National Insurance Associations (CEA)
 - European Federation of Security Services (CoESS)
 - European Furniture Manufacturers' Federation (EFIC)
 - European Hospital and Healthcare Employers' Association (HOSPEEM)
 - European Industrial Minerals Association (IMA)
 - European Rail Infrastructure Managers (EIM)
 - European Regions Airline Association (ERA)
 - European Savings Banks Group (ESBG)
 - European Skippers' Organisation (ESO)
 - European Telecommunications Network Operators' Association (ETNO)
 - European Union of the Natural Gas Industry (EUROGAS)
 - General Committee for Agricultural Cooperation in the European Union (COGECA)
 - Hotels, Restaurants and Cafés in Europe (HOTREC)
 - International Air Carrier Association (IACA)

- International Aviation Handlers' Association (IAHA)
- International Federation of Film Producers' Associations (FIAPF)
- International Federation of Insurance Intermediaries (BIPAR)
- International Road Transport Union (IRU)
- Performing Arts Employers' Associations League Europe (PEARLE)
- Retail, Wholesale and International Trade Representation to the EU (EuroCommerce)
- Union of the Electricity Industry (EURELECTRIC)

5. Sectoral European trade union organisations

- European Arts and Entertainment Alliance (EAEA)
- European Confederation of Independent Trade Unions (CESI)
- European Cockpit Association (ECA)
- European Federation of Building and Woodworkers (EFBWW)
- European Federation of Journalists (EFJ)
- European Federation of Public Service Unions (EPSU)
- European Federation of Trade Unions in the Food, Agriculture and Tourism Sectors and Allied Branches (EFFAT)
- European Metalworkers' Federation (EMF)
- European Mine, Chemical and Energy Workers' Federation (EMCEF)
- European Trade Union Committee for Education (ETUCE)
- European Trade Union Federation: Textiles, Clothing and Leather (ETUF:TCL)
- European Transport Workers' Federation (ETF)
- International Federation of Actors (FIA)
- International Federation of Musicians (IFM)
- International Federation of Professional Footballers' Associations — Division Europe (FIFPro)
- Union Network International — Europe (UNI europa)
- Union Network International — Media and Entertainment International — Europe (EUROMEI)

Further information

- Employment and Social Developments in Europe (2011), European Commission
<http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=1137&furtherNews=yes>
- Industrial Relations in Europe (2010), European Commission
<http://ec.europa.eu/social/keyDocuments.jsp?type=0&policyArea=0&subCategory=0&country=0&year=0&advSearchKey=IRIE&mode=advancedSubmit&langId=en>
- Restructuring — website of the European Commission
<http://ec.europa.eu/social/main.jsp?catId=782&langId=en>
- Social Dialogue — website of the European Commission
<http://www.ec.europa.eu/socialdialogue>
- Social Dialogue — website of the International Labour Organisation
<http://www.ilo.org/global/about-the-ilo/decent-work-agenda/social-dialogue/lang--en/index.htm>
- European Commission Staff Working Document on the functioning and potential of European sectoral social dialogue (2010)
<http://ec.europa.eu/social/BlobServlet?docId=5591&langId=en>

Forthcoming guides

- Ageing and Pensions (June 2012)
- Labour Law and Working Conditions (December 2012)
- Social Economy (June 2013)
- ESF and other Funding Instruments (December 2013)
- Social Inclusion (June 2014)

Glossary of terms

Acquis communautaire

The accumulated legislation, legal acts, and court decisions which form the body of EU law.

Bipartite

A form of social dialogue involving only organisations representing management and labour (the social partners).

Collective bargaining

Negotiations between social partners at national, sector, company or other level concerning pay and other employment and working conditions. They lead to collective agreements which may be of general application in the given country, region, sector or company.

EU-level social dialogue

A set of processes and arrangements whereby European-level organisations representing employers and workers conduct discussions and negotiations, undertake other joint work, and are together involved in EU decision- and policy-making. The form of EU-level social dialogue can be bipartite or tripartite, and it can take place on cross-industry or sectoral levels.

European Works Councils (EWCs)

Platforms for European-level social dialogue within large multinational companies. EWCs typically bring together central management and employee representatives from the countries where the enterprise operates. They enable information and consultation of employees on transnational matters. Sometimes they provide a format for negotiations.

Flexicurity

The European Union's main approach towards the labour market, which seeks to balance the need for labour market flexibility with the need for workers' economic security. Its main components in-

clude flexible but reliable contractual arrangements, comprehensive lifelong learning strategies, effective active labour market policies, and modern social security systems that provide adequate income support, encourage employment and facilitate labour market mobility.

Impact assessment

A process through which the European Commission assesses (using its own expertise and input from stakeholders) the potential economic, social and environmental consequences of new policy initiatives under consideration, and weighs the advantages and disadvantages of possible policy options.

Internal/single market programme (1985-1992)

Based on the Commission's White Paper on the completion of the internal market (June 1985), the internal market programme was launched with the aim of eliminating non-tariff barriers such as national regulations on products and services, frontier checks on goods and persons or differences in indirect taxes. The concept of the internal market and a deadline for its completion (31 December 1992) were laid down in the Single European Act of 1986, which also changed decision-making rules from unanimity to qualified majority voting in most areas related to the internal market.

Social dialogue

Interactions (such as negotiation, consultation or simply exchange of information) between, or among, organisations representing employers and workers (the social partners) and public authorities (at EU, national or other levels). The term 'social dialogue' is sometimes used more widely to include also dialogue between management and labour at individual workplaces.

Social partners

Organisations representing employers or workers, notably employers' associations and trade unions.

Tripartite

A form of social dialogue involving the social partners as well as public authorities (such as a national government or EU institutions).

European Commission

Social Europe guide — Volume 2: Social Dialogue

Luxembourg: Publications Office of the European Union

2012 — 105 pp. — 14,8 x 21 cm

ISBN 978-92-79-21309-0

ISSN 1977-2343

doi:10.2767/448

The Social Europe guide is a bi-annual publication aimed at providing an interested but not necessarily specialised audience with a concise overview of specific areas of EU policy in the field of employment, social affairs and inclusion. It illustrates the key issues and challenges, explains policy actions and instruments at EU level and provides examples of best practices from EU Member States. It also presents views on the subject from the Council Presidency and the European Parliament.

The second volume in this series describes the history, workings and accomplishments of social dialogue at EU level. Negotiations, consultations and exchanges of information among organisations representing employers and workers (the social partners) and public authorities are an essential element of the European social model and play a key role in defining and implementing EU economic, employment and social policy as well as sectoral policies. The volume also looks at how social dialogue has evolved at the level of individual Member States in response to the economic crisis.

The guide is available in printed format in English, French and German.

How to obtain EU publications

Free publications:

- via EU Bookshop (<http://bookshop.europa.eu>);
- at the European Commission's representations or delegations. You can obtain their contact details on the Internet (<http://ec.europa.eu>) or by sending a fax to +352 2929-42758.

Priced publications:

- via EU Bookshop (<http://bookshop.europa.eu>).

Priced subscriptions (e.g. annual series of the *Official Journal of the European Union* and reports of cases before the Court of Justice of the European Union):

- via one of the sales agents of the Publications Office of the European Union (http://publications.europa.eu/others/agents/index_en.htm).

Are you interested in the **publications** of the Directorate-General for Employment, Social Affairs and Inclusion?

If so, you can download them or take out a free subscription at <http://ec.europa.eu/social/publications>

You are also welcome to sign up to receive the European Commission's free *Social Europe e-newsletter* at <http://ec.europa.eu/social/e-newsletter>

<http://ec.europa.eu/social/>



www.facebook.com/social europe



Publications Office

ISBN 978-92-79-21309-0



9 789279 213090