

EUROPEAN SOCIAL DIALOGUE: A MIXED PICTURE

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Introduction

The late 90s was an eventful period for the European social dialogue. The entry into force of the Amsterdam Treaty and the incorporation of the Maastricht social agreement into it signalled a revival of social Europe. This time, however, the want of a common vision by the Fifteen would make the Community social partners the focal point. On paper, everything was in place to assist this new impetus. And yet, after the signature of three cross-industry agreements between the Val Duchesse partners (UNICE, ETUC, CEEP), it quickly became clear that the political will to turn this dialogue into the spearhead of social policy was lacking on the employer's side. It was as if they had concluded a European collective agreement more as the result of a calculated tactic (to fend off legislation, or not expose themselves to intervention by the European Parliament, for example) than an overall strategy. The Commission's attempts to revitalize it proved to no avail, with the notable exception of the sectoral dialogue which continued to make headway.

A long-term view of Community industrial relations since their inception reveals that issues like information/consultation, training, and the macroeconomic dialogue have remained constant, although the context has changed considerably. For example, 15 years ago the macroeconomic dialogue appeared relatively marginal, while today the third phase of the euro, the creation of the European Central Bank and the Cologne process have put it at the centre of the agenda. By contrast, life-long learning, which so many had thought would provide the basis for far-reaching progress in the Social Dialogue, has been reduced to a far more limited concept of employability.

Ostensibly, the dialogue has had few tangible results so far, but a new broad mix of players and procedures have effectively revolutionized it. This article first reviews what we see as the key recent developments, then considers the main agreements to come out of the Social Dialogue, and how the procedures have developed. The final section will look at the contents of inter-branch and sectoral bargaining and the processes of the dialogue (including the macroeconomic dialogue), map out future prospects, and draw conclusions.

1. Changes in the players

UNICE

The prospects of an increased role for consultations and negotiations led to some redefinition of the social partner representative organizations. Although not originally part of the Community Social Dialogue, the *European Association of Craft, Small and Medium-sized Enterprises* (UEAPME) reached agreement with UNICE on a method of cooperation within the framework of the Social Dialogue. The agreement, signed in December 1998, provides for closer coordination between the two employers' organizations as a result of UEAPME's appeal to the Court of Justice of the European Communities over being left out of negotiations leading to agreements (agreement on parental leave). For the record, the Court of Justice dismissed UEAPME's complaint and recognized the legitimacy of the signatory organizations to the agreement. The new coordination with UNICE, giving entrenched recognition to UNICE's representation of the European employers, is now carried out through preparatory meetings between the two organizations to agree on joint positions to be argued in the Social Dialogue forums. Essentially, therefore, it amounts to increased consultation and concertation.

In July 1999, UEAPME merged with the European Committee for Small and Medium-sized Independent Companies (EUROPMI) to increase the influence and representation of self-employed businessmen and family firms. The resulting organization represents some 10 million small and medium-sized firms across the EU. Also part of this general trend towards reshaping the players were the repeated demands by the managerial association Confédération européenne des cadres (CEC) for the cross-industry dialogue to be opened up to other representative partners (see also the agreement with Eurocadres, below).

Craft workers, self-employed, managerial staff, family businesses: there is no escaping the fact that the wider role given to social partner consultations in the Treaties, and the quasi-legislative role devolved on the participants in the Val Duchesse dialogue, raises implicit questions about their representativeness¹.

Internally, UNICE's Council of Presidents approved the principle of alterations to its internal rules on 4 December 1999², chiefly to its decision-making procedures. UNICE weights votes by country size. The percentage vote for a qualified majority is 71% (or 80% for certain decisions, such as approval of the budget, acceptance of new members, etc.). More controversial was its decision to adopt the same "super-qualified majority" to engage talks with the ETUC, although agreements still had to be approved by consensus. Only time will tell whether this cautious change reflects an entrenched sticking point on the social front, or a tentative step towards a more proactive stance. Whatever else, powerful external pressures were at work, especially from the European Parliament which remains highly critical of the content of the agreements reached by the social partners and could have used UNICE's internal rules as an argument in favour of an overhaul of the social chapter.

On the strategic front, UNICE spelled out its position on the Social Dialogue in a document entitled "*Releasing Europe's employment potential: Companies' views on European social policy beyond 2000*" (September 1999). It includes a section on what the employers' organization calls "A qualitative approach to European social policy to release Europe's employment potential". It repeatedly expresses fears about what it sees as excessive interventionism by all levels of government in social policy and "rigidities" in social legislation. As a result, it gives qualified support to the European social dialogue which it sees as a means of working out guidelines and shared objectives based on exchanges of opinions to promote a deeper understanding of one another's positions. It has specific reservations, however, about the social legislation which the dialogue can lead on to since the Maastricht Treaty. This is why UNICE has for so long denied that it is *mandated* by its member organizations to negotiate collective agreements with the European Trade Union Confederation. Today, the European employers take it as read, according to UNICE, that where European level action is appropriate, "the social partners are better placed to find balanced and mutually acceptable solutions". However, the acceptance of the role of the Social Dialogue is offset to some extent by the affirmation that "this system (*the European social system* - *Ed.*) is incompatible with the imposition of forced convergence by the European legislator".

¹ The Commission has commissioned a study on this. The results for the cross-industry level can be found on: <http://www.econ.ucl.ac.be/TRAV/recherche/dg5.html>

² A more comprehensive analysis of these changes will be made when the final text of UNICE's new articles becomes available, which it was not at the time of writing.

All in all, the European employers remain wary of the role of co-legislators which the European Treaty has assigned to them and the trade unions, and half-hearted about the need for Community legislation in social matters. If convergence there must be, it must come through the market³.

The European Trade Union Confederation (ETUC)

On the trade union side, institutional changes in the European Trade Union Confederation (ETUC) are indicative of its growing legitimacy. In March 1999, France's CGT - a long-standing critic of European integration - joined the ETUC. Admittedly, its membership application was opposed by another French trade union, CGT FO⁴, for historical reasons, but there is no escaping the fact that with the CGT, CGT FO, CFDT and CFTC inside the European Trade Union Confederation, virtually the entire French trade union movement is now represented at Community level. As regards representation, one other noteworthy event was the understanding on cooperation signed on 8 July 1999 by the CEC (Confédération européenne des cadres) and Eurocadres (European Council of Professional and Managerial Staff, a member of the ETUC). It mainly provides for the setting up of a joint Liaison Committee and their participation in the Social Dialogue bodies and processes.

One highlight of the year was the European Trade Union Confederation's ninth Statutory Congress, held in June-July 1999. One key aim was to work out ways of guiding and defining the qualitative content of collective bargaining policy at European level, and setting the ETUC's priorities for the next four years. It focussed on the EU's enlargement to the Central and Eastern European Countries (CEEC) and the future of social protection. It passed two resolutions which clarify the ETUC's broad political priorities. The first, entitled "Towards a European system of industrial relations" focusses on the need for social regulation of economic and monetary integration, and to strengthen the European social dialogue. It stresses the need for action at European level to promote jobs and coordinated collective bargaining to ensure fair wages and improved living and working conditions EU-wide. It emphasized the importance of European works councils to the progressive Europeanization of industrial relations and trade unions. The second resolution deals with general European trade union policy. It stresses the importance of upholding the European social model, and what Europe's response should be to globalization. It also addresses the different aspects of European integration: monetary union, employment, the future of social protection, EU enlargement and reform of the EU institutions.

Both documents demonstrate the European trade unions' commitment to fostering the emergence of a sort of social European Union, which is held up as a *sine qua non* condition for convergence between the Member States while maintaining the improvements made and jobs.

³ In UNICE's own words, "to encourage progressive and market-driven convergence towards the most successful social policy practices of Member States, as opposed to forced harmonisation".

⁴ Approval of the CGT's membership was accompanied by a side agreement between the CFDT and the UNSA (Union Nationale des Syndicats Autonome, a full member of the ETUC, admitted at the June 1999 Executive Committee) on representation on the Executive Committee.

The Congress was also a platform to call for further progress in the negotiating dimension of the Social Dialogue as the necessary accompaniment to European political integration. The ETUC considers that the main aim of regulation must be harmonization of working and social conditions. This is one of the main points of difference between the ETUC and UNICE; the latter, as we saw, believes that the European social dialogue and the imposition of “forced convergence by the European legislator” must be regarded as mutually exclusive, whereas the ETUC takes the opposite view that “legislation and negotiation are complementary and equally necessary to develop the social acquis” (although the ETUC puts framework agreements negotiated through the Social Dialogue first). Strengthening the European social dialogue is a priority for the Confederation, which believes that its full potential has not yet been exploited due to UNICE’s reservations and unwillingness. Indeed, it specifically calls on the European Commission to play a key role by pressing the employers to show more commitment to the Social Dialogue.

At its Congress, the European Trade Union Confederation (ETUC) announced its intention of calling on UNICE and CEEP to engage in talks with a view to reaching a new agreement laying down the scope, content and rules of the European system of industrial relations to complement national systems (the interaction between the national and Community levels and between cross-industry and sectoral dialogues had been highlighted at the Congress). Further development of that European system should include dispute settlement procedures and “full recognition of specific trade union rights in the EU Treaty, beginning with the International Labour Organization (ILO) Conventions on freedom of association, collective bargaining, the right to strike, child labour and forced labour”. Finally, beyond the European social dialogue proper, the ETUC called for a coordinated policy of national collective bargaining, definition of a “European solidaristic pay policy”, and, in the longer-term, Europeanization of trade unions. In a letter to UNICE, it proposed five new negotiating issues and three work topics. We shall see below (pages 51-52) that this call met with a lukewarm reception from the employers.

I cannot conclude without a reference to other developments on the trade union front in the past three years, not least the stepping-up of strategic cross-border coordination between national trade union confederations (see the Doorn process bringing to German, Dutch, Belgian and Luxembourg unions). Alongside this cross-industry initiative, there was also an industry initiative by the German metalworking industry union IG-Metall Westphalia, which invited Belgian, Dutch and Luxembourg trade unionists to sit in as observers in negotiations for collective agreements⁵.

At the very least, these developments signal a desire to extend cross-border trade union cooperation and to develop the role of the social partners at Community level further.

⁵ On which, see Pochet, P., *Union monétaire et négociations collectives en Europe*, PIE-Peter Lang, Collection Travail&Société, No 23, Brussels, 2000 and Gollbach, J. and Schulten, T., *Cross-border Collective Bargaining Networks in Europe, New Approaches to European Co-ordination of National Collective Bargaining Policy in the Metal Working Industry*, WSI Discussion Paper, No 71, Düsseldorf, 1999.

The Commission

Following on from the Communication of 20 May 1998 on the Commission's strategy for "adapting and promoting the Social Dialogue at Community level"⁶, twenty two Sectoral Dialogue Committees were set up in 1999 and laid down their work programmes. They stemmed from the Commission's avowed desire to adapt both sectoral and cross-industry consultation procedures. For the record, the Commission had also stressed its desire to encourage the further development of contractual relations, and to assess the agreements presented to it on a case by case basis. It also stated its aim of reforming the Standing Committee on Employment, specifically by changing its composition (see part 2).

Also, in the run-up to the EU's enlargement to Central and Eastern European countries, the Commission set itself the longer-term aim of fostering links between the social partners in the Fifteen and the applicant countries with a view to gradually building up cooperation at both cross-industry and sectoral level. That in turn means developing structured Social Dialogue in these countries so as to involve the trade unions and employers' organizations in the EU's pre-enlargement initiatives (see below).

2. Agreements and procedures

Significant movement in the players in 1999 was matched by developments in the procedures for passing social laws. Before the Maastricht Treaty, there was only one possibility: the Council would adopt a directive, and the Member States would incorporate it into their national law. Now, there are four different ways (see diagram below).

The first is through an agreement between the social partners to be implemented by them at national level. This is the road the ETUC wants to go down. To date, there is only such agreement - a 1997 framework agreement in the agricultural sector on improving waged agricultural work. This invites the social partners at national, local and workplace level to negotiate the reduction in working time. It sets limits on overtime and specifies rest periods and paid leave. Regrettably there is too little information to say precisely how far the provisions of the agreement have been taken into account or disregarded in national bargaining.

Another way is via an agreement between the social partners subsequently implemented by a European directive. There are three examples of this at cross-industry level (see below) and, in the year's most striking development, the first sectoral agreement on working time in sea transport has also been turned into a directive. The agreement sets maximum daily and weekly working hours, guaranteed paid annual leave, minimum hours of rest, and sets the minimum age for night work. It applies to all seafarers on board seagoing ships registered in a European Union country.

The third way is European legislation implemented at national level by a collective agreement. This is the case, for example, with the European Works Councils Directive, which is implemented through agreements between workers and management in the multinationals concerned.

⁶ COM (1998) 322 final, "Adapting and promoting the Social Dialogue at Community level", Commission Communication of 20 May 1998 (proposal for a Council decision amending Decision 70/532/EEC setting up the Standing Committee on Employment in the European Communities).

Finally, there remains traditional legislation implemented in the usual way, if the European social partners decide not to exercise their powers on the matter. One issue currently on the agenda is whether autonomous social partner negotiations are possible on health and safety matters (in theory, “yes” since the Amsterdam Treaty came into force) and, if so, on what basis, in light of the existence of the Luxembourg Advisory Committee on Safety and Health. The ETUC can accept negotiations on the health and safety aspects of work organization, but not on health and safety rules, which can only be set on the basis of technical and scientific criteria guaranteeing the highest possible level of protection.

Table 1: Four procedures for Social Europe

	Implementation by agreement	Implementation by legislation
Agreement field	- Working time in agriculture (7/97)	- Parental leave (12/95) - Part-time work (6/97) - Working time in sea transport (9/98) - Fixed-term contracts (1/99)
Legislation field	- European Works Councils	- Posting of workers - Reversal of the burden of proof

Source: CEC, Report on industrial relations, March 2000.

3. Content and approach

Cross-industry dialogue

Three framework agreements

The late 90s are a good standpoint for a first review of the results of the Social Dialogue, because most of the first cross-industry framework agreements were negotiated in the latter half of the decade. For reference, UNICE, ETUC and CEEP concluded three framework agreements which led on to Community directives. The first was on parental leave, the second on part-time work and the third on fixed-term employment contracts.

The first framework agreement was concluded on 14 December 1995. Six months later, on 3 June 1996, it was turned into a Community Directive adopted by the EU Council under the Maastricht Social Agreement procedures⁷. It mainly confers on men and women workers an individual right to parental leave on the grounds of the birth or adoption of a child to enable them to take care of that child, for at least three months (with protection against dismissal). These are minimum requirements, so the Fifteen are free to introduce more favourable national measures. As the ETUC stresses, this directive improved social/employment law in five of the fifteen countries.

⁷ The Directive (96/34/EC) was amended and extended to the United Kingdom by Directive 97/75/EC of 15 December 1997. It was implemented in the Member States on 3 June 1998 (15 December 1999 for the United Kingdom).

The directive on part-time work entered into force on 20 January 1998, but has only been fully in effect since 20 January 2000⁸. Its main purpose is to ensure that workers affected by new flexible work organization arrangements receive comparable treatment to full-time workers on indefinite contracts. Here again, the ETUC points to the improvements made by this directive to the situation in countries where it was previously unregulated, namely Britain and Ireland (accounting for some 5 million workers).

The recent framework agreement on fixed-term work merits closer attention. UNICE, the ETUC and CEEP settled the contents of the agreement on 18 March 1999. Some three months later (on 28 June 1999), the Council implemented it in a directive (Directive 99/70/EC, the first such to apply to all Fifteen EU Member States straight away). The purpose of the directive is to put into effect an overall framework of general principles and minimum requirements on fixed-term work to ensure equality of treatment between workers (nearly 14 million Europeans work on fixed-term contracts). In fact, the directive had already been foreshadowed by the social partners when concluding their agreement on part-time work. The preamble to that agreement announced their intention of considering the need for similar agreements relating to other forms of flexible work, namely fixed-term contracts and temporary work.

The directive on fixed-term work provides that fixed-term workers shall not be treated in a less favourable manner than comparable permanent workers solely because they have a fixed-term contract unless different treatment is justified on objective grounds. Employment contracts of an indefinite duration (open-ended contracts) are stated to be the general form of employment relationship. It also aims to prevent abuse arising from the use of successive fixed-term employment contracts. To this end, the Member States are invited to introduce measures such as setting objective reasons justifying the renewal of such contracts or relationships, the maximum total duration of successive fixed-term employment contracts or relationships, and the maximum number of renewals of such contracts or relationships. At the same time, employers are asked as far as possible to facilitate access by fixed-term workers to appropriate training opportunities to enhance their skills, career development and occupational mobility. Here as elsewhere, the Member States may introduce more favourable provisions for workers than those set out in the directive. But they may also provide that the agreement does not apply to initial vocational training relationships and apprenticeship schemes, or employment contracts which have been concluded within the framework of a specific public or publicly-supported training, integration and vocational retraining programme.

The directive entered into force in all Member States on 10 July 1999 with a requirement that it be implemented by 10 July 2001 at the latest. *“The signature of the framework agreement on fixed-term work was a clear success for the European social partners who got the result which the Commission had for years failed to get”* (Vigneau, 1999). The Commission’s own proposal for a directive on temporary work had in fact been blocked chiefly by the United Kingdom since the early 80s, and had had to resign itself to withdrawing its proposal for want of agreement in the EU Council.

What conclusions can be drawn from this agreement? The framework agreements negotiated have been criticised as unambitious compared to the more highly-developed corpus of social laws in some Member States. Because the framework agreements set only minimum

⁸ For the United Kingdom, it entered into force on 7 April 1998 and must be brought into effect by 7 April 2000 at the latest.

requirements, for example, their impact on national laws will depend on each State's level. But it could also be said that convergence of social laws is still vital in the medium- and long-term to build up a basic foundation of specifically European established social gains, and in view of the EU's eastwards enlargement. The aim of convergence is to avoid lacunas in the law which may be openings for social dumping, by raising labour standards. Also, the technique used involves action on two fronts: European and national. In other words, neither the national nor European levels have a monopoly on the social dimension - it forms part of an interaction between these two levels which should over time develop the national and European agendas alike.

The quality of the European social dialogue, therefore, can be assessed just as usefully from its setbacks. For that reason, the next paragraph looks at the failure of the framework agreement on information/consultation of workers at national level.

And a failure

The social partners are not always inclined to engage negotiations. In July 1997, the Commission launched the first round of social partner consultations on information and consultation for workers at national level. The aim was to try and work out at Community level a general framework for informing and consulting workers so as to plug the loopholes in Member States' laws (including failure to prevent social problems, inadequate penalties for breaches of rights,...). The idea was to try and set up workplace procedures for informing and consulting employees on matters which directly affect work organization and their employment contracts.

The second phase of consultations, to consider the practical contents of a Community initiative in this area, was launched on 5 November 1997, placing the ball in the social partners' court. The ETUC gave its backing to the Community initiative in February 1998, followed in March by the CEEP. After much stalling, however, (Pochet and Arcq, 1998) UNICE flatly refused on 16 October 1998.

The Commission therefore decided to use its powers under the Treaty to initiate legislation. On 11 November 1998, it adopted a Proposal for a Council Directive establishing a general framework for informing and consulting employees in the European Community. Its basic starting point was that national provisions and practices have not always managed to anticipate and prevent the social problems that may be caused by changes in the general running of the firm, and that consultation on measures to alleviate the social consequences of strategic economic decisions comes too late to be of use. Also, inadequate penalties for breach may throw into question the effectiveness of the right to be informed and consulted. The Renault Vilvoorde affair (the surprise closure of one of the French carmaker's Belgian plants) is still fresh in the memory...

UNICE argued that under the subsidiarity principle, the European Union had no powers to regulate matters which were the responsibility of the Member States, pointing to the vast body of national laws on the matter. In September 1999, the employers' organization spelled out its views in its document on the future of European social policy (UNICE, 1999). It argued that *"legislative action at European level should:*

- be limited to cases where the issue under consideration has transnational aspects and can therefore not be satisfactorily regulated by Member States, or when it is necessary to prevent unfair competition (...);

- take the form of broad frameworks defining objectives and principles at European level but leaving the choice of how to implement them to the Member States (...);
- fully take account of companies' needs for flexibility, workers protection needs and access to jobs for the unemployed;
- fully take account of the need to promote entrepreneurship in Europe (...)"

On this basis, UNICE, argued, the European Union had no business regulating information and consultation of employees in companies at national level⁹.

This unwillingness sent the information and consultation issue back to the established Community decision-making procedure: a Commission legislative proposal, scrutiny by the European Parliament, an Opinion by the Economic and Social Committee, and a decision by Council and Parliament. As a result, the balance of power took a political turn. Significantly, by the end of 1999 - more than a year after the Commission published its draft - the proposal has still not found its way onto the agenda of an EU Council meeting. Very strong opposition from some Member States makes it unlikely that the proposal will pass into law any time soon (despite the fact that since the Amsterdam Treaty entered into force, information/consultation can be decided on by a qualified majority). Everything, therefore, hinges on the will and determination of the forthcoming EU Presidencies. But it is a matter of record, for example, that it took nearly fifteen years for the Council to adopt the European Works Councils Directive in the face of entrenched opposition from the employers. It is more than likely that the social partners will assimilate this type of fact into their strategy towards the Community Social Dialogue.

Sectoral dialogue

Within this mixed picture, interesting, although less high-profile, developments have taken place in the sectoral social dialogue. A long series of agreements have been concluded in the past two years in the sea transport industry (working time, see above), railways (sectors excluded from the Working Time Directive), and on child labour in the footwear industry and retail trade. Other agreements have focussed on the promotion of employment (postal services, telecommunications, cleaning industry), vocational training (agriculture, textiles and clothing, cleaning, hotels and catering, tourism), health/safety (agricultural sector). Codes of conduct and social labels (e.g., concerning child labour among other things in the footwear, textile and clothing industries). Some genuinely ground-breaking agreements have been reached, like the 1997 agreement for the agricultural sector. Also of note is the 1998 agreement between the social partners in the maritime transport industry, implemented by a Council directive adopted in June 1999.

Also, as mentioned in the introduction, the Commission Communication on its strategy for adapting and promoting the Social Dialogue resulted in the setting-up of twenty two sectoral committees (cf. table).

⁹ UNICE followed the same hard line in its opinion on the Commission's proposal for a directive, finding it pointless, against the subsidiarity and proportionality principles, and even a threat to jobs: "*it poses serious risks for the capacity of European companies to adapt and, therefore, for employment without making it possible to achieve its objectives*".

Finally, the number of institutional players was increased by the creation of a Federation of Transport Workers' Unions in the European Union.

There were, of course, some failures, too, chiefly in the road transport (weekly working time of mobile workers) and fishing industries (working time). But the general trend in the sectoral dialogue clearly reveals a growing willingness by the social partners to set themselves common rules at industry-level.

Table 2: Sectoral Social Dialogue Committees (SSDC)¹⁰

SECTOR	Workers	Employer	Old Committee	Old informal group	New SSDC
Agriculture	EFA	GEOPA-COPA	X		X
Insurance	UNI-Europa	CEA ; BIPAR ; AECI		X	X
Banking	UNI-Europa	BFEU; ESBG ; EACB		X	X
Footwear	ETUF-TCL	CEC		X	X
Wood	EFBWW	CEI Bois		X	X
Railways	ETF	CER	X		X
Commerce	UNI-Europa	EUROCOMMERCE		X	X
Construction	EFBWW	FIEC		X	X
Culture	EEA	PEARLE			X
Horeca	ECF-IUF	HOTREC		X	X
Inland navigation	ETF	IUIN + ESO	X		X
Cleaning	UNI-Europa	EFCI		X	X
Sea fishing	ETF	EUROPECHE	X		X
Postal services	UNI-Europa	POSTEUROP	X		X
Private security	UNI-Europa	COESS		X	X
Personal services (hairdressing)	UNI-Europa	CIC Europe			X
Sugar	ECF-IUF	CEFS		X	X
Tanning	ETUF-TCL	COTANCE			X
Textiles	ETUF-TCL	EURATEX		X	X
Sea transport	ETF	ECSA	X		X
Road transport	ETF	IRU	X		X
Temporary work	UNI-Europa	CIETT			X
Telecommunications	UNI-Europa	ETNO	X		
Air transport	ETF; ECA	AEA ; ERA ; IACA ; ACI Europe; ACCA	X		
Electricity	EPSU; EMCEF	EURELECTRIC		X	
Media	EFJ	UER ; ENPA		X	
Local public services	EPSU	CEMR		X	
Graphics	UNI-Europa	INTERGRAF		X	
TOTAL			9	15	22

¹⁰ Cf. Report on Industrial Relations, 2000.

Macroeconomic dialogue

Finally, 1999 was also the year in which the European Employment Pact was established and a macroeconomic dialogue initiated. For a point of record, the idea of a European Employment Pact was first launched by Germany at the end of 1998. The original idea was to strengthen EU action on employment through effective coordination of Member States' taxation, fiscal and incomes policies.

The idea was first embraced enthusiastically by some of Germany's partners - France and Italy among them - and the European Trade Union Confederation. As negotiations progressed, however, it became clear that the Fifteen were not all on the same wavelength. Some wanted the EU to set verifiable, binding, quantitative targets for European economic policy, while others thought economic growth could not be legislated for and that Member States' credibility would suffer from too measurable a failure in this area. A week ahead of the Cologne Summit, these differences of opinion prevented the "Jumbo" Council (Ministers for Economic Affairs and Finance plus Ministers of Labour and Social Affairs) from reaching an ambitious pre-agreement on the contents of the Pact, leaving the German Presidency with the task of brokering a compromise position to be put to the fifteen Heads of State and Government.

The Fifteen endorsed the compromise, and the Cologne Summit adopted a resolution and a report on the European Employment Pact based on three pillars: the European employment strategy, economic reforms and macroeconomic dialogue. It dovetails with the Luxembourg and Cardiff processes and adds a third: the macroeconomic dialogue. This aims to involve the European Central Bank, representatives of the EU Council, the Commission and the social partners to improve the interaction between wage development, fiscal policy and monetary policy. The dialogue's task is to find a balanced policy mix geared to growth and employment (see also the article on employment in this part).

The ETUC's first reaction to the announcement of the draft employment pact was to welcome this proposal which, *"focussed on increased coordination of macroeconomic policies and a strengthening of the European strategy for employment (...) represent the makings of an effective solution to Europe's ills"*. The ETUC had calculated that increased coordination of macroeconomic policies geared to a sustainable, domestic demand-led recovery should enable the EU to achieving a sustainable growth rate of 3.5% while improving the employment rate.

However, it was not entirely satisfied with the outcomes of negotiations at the Cologne European Council. A statement by its General Secretary, Emilio Gabaglio, said he was *"deeply concerned that no decision has been taken to re-target European economic policy on stimulating employment on the basis of strong, non-inflationary growth"*. He was also convinced that the current monetary and fiscal policy mix *"is far from the right answer to the post-EMU economic and employment scenario"*. Considering the employment pact as essentially "procedural", the ETUC nevertheless said it would play an active role in the macroeconomic dialogue to get policies capable of making the most of existing growth and employment potential.

UNICE also took a position on the Employment Pact. It argued that *"Member States are primarily responsible for the implementation of the reforms needed to the labour market"*, and had misgivings about a pact involving binding commitments, preferring *"a voluntary process of exchange of information and dialogue at EU level"*. Nevertheless, UNICE supports the

three objectives set out in the proposal, namely “*to ensure a tension-free macroeconomic policy, a better implementation of the coordinated employment strategy in the Luxembourg process and a strengthening of structural reforms in line with the Cardiff process*”.

4. Prospects

The late 90s seems to mark a turning point in the employers’ attitude to the European social dialogue. The refusal to negotiate an agreement on national information and consultation rules seems to point up the limits to the Social Agreement procedure.

The European Trade Union Confederation left UNICE in no doubt about its desire to continue “preliminary work” on issues like telework, discrimination and, more generally, the development of the employment pact intended to establish a macroeconomic dialogue.

The ETUC believes many areas of work remain. Aside from those cited above, they include non-standard employment relationships, access to life-long learning, working time, complementary social protection, etc. But UNICE’s internal debates offer dim prospects of any negotiations on these topics at the present time, and in some instances they may have to be referred back to national and local levels. In a bid to revitalize the Social Dialogue, the ETUC suggested to UNICE and CEEP that they should settle on priority issues for negotiation, instruments and a timetable. A comparison of UNICE and CEEP’s responses to the ETUC’s proposal is instructive. The trade union identified five possible issues for negotiation.

The first was temporary work. This was the third of the three aspects of non-standard employment - the others being part-time work and fixed-term work, both of which had led to agreements.

UNICE is in the midst of wide-ranging consultations to determine whether or not an employers’ negotiating platform can be worked out. It is typical of the way UNICE operates to want to go into talks with a specific negotiating mandate.

The CEEP, by contrast, was mandated from the outset to engage negotiations on the three aspects of non-standard employment. Although “*it does not consider the latter issue to have the same importance as the other two*”, if negotiations were to start up, the CEEP would assume its responsibilities.

The second issue suggested by the ETUC was telework and the scope for concluding a voluntary agreement on it (i.e., without a prior Commission proposal). UNICE and CEEP though the issue should be looked at closely, but only after additional studies or awareness-building campaigns. UNICE stressed the need to distinguish what was specific to telework from other features of the employment relationship.

The third issue put forward was lifelong learning, on which a series of Social Dialogue Joint Opinions had been issued since 1986. Both employers’ organizations acknowledge the value of these Opinions, but UNICE considers it essentially a matter for workplace action, while CEEP stresses that, as the EU has no specific powers in the matter, any agreement would have to be reached autonomously.

The fourth proposal was on complementary social protection. Both employers' organizations agreed to engage discussions subject to prior technical groundwork and the outcomes of a joint seminar held on 17 November 1999.

The fifth proposal was for a revision of the Working Time Directive. Both UNICE and CEEP were against this, although CEEP suggested taking forward a debate already begun with the European Trade Union Institute on a broader concept of the "stages of life" which included family and social life alongside working life.

The ETUC had also put forward three issues on which joint recommendations might be possible. They were discrimination (articles 13 and 141 of the ECTreaty), sexual harassment¹¹ and the Observatory on industrial change recommended by the October 1998 report¹² of the high-level group of experts on industrial change chaired by Mr Gyllenhammar (set up after the closure of the Renault Vilvoorde plant).

UNICE's response was to suggest concentrating on finishing off the agreed work programme before adding new items to it.

CEEP thought sexual harassment was a matter for the Member States. It wanted to build on measures already taken to tackle discrimination, and look at the technical side of aspects not yet addressed. It reaffirmed its support for the Observatory on industrial change.

It seems clear from these responses that the substantive progress hoped for by the ETUC will not come about without pressure from outside.

Conclusion

It is clear that the momentum given to the Social Dialogue by Maastricht and Amsterdam is being thwarted by a lack of political will from the employers' side. While, within the space of a few years, the social partners managed to prove their ability to add to the Community social acquis by adopting three framework agreements on key issues, the setback over national information and consultation rules and their inability to agree on a common agenda show up certain fault lines in the process and raise questions about its dangers and weaknesses. This analysis concludes with a consideration of some of them.

Institutionally, the enhanced Social Dialogue has naturally gone hand in hand with wider powers for those engaged in it - the social partners. Obviously, they do not have "the final say" in the process developed at Maastricht, but greater powers for them can only be achieved at the expense of those of other institutions, starting with the Commission: while the Single Act tasked the Commission with "endeavouring to develop the dialogue between management and labour", by Amsterdam its task had become only to "facilitate their dialogue". This modest loss of powers is clearly due to the expanded responsibilities acquired by the social partners, but is not without consequences. The European Parliament, too, has lost out to the

¹¹ On which the European employers did not want to engage negotiations (see part 2, point 46).

¹² "Managing Change. Final Report of the High level group on economic and social implications of industrial change", European Commission, Directorate for Employment, Industrial Relations and Social Affairs, Unit V/D.3, 1998.

increase in the social partners' powers, being ousted from the initiation, negotiation and decision-making stages. Obviously, this is an attribute of the negotiation process, but it prompts the question whether this lack of a role for the EP has not tipped the balance of power between the negotiators or, at the very least, gives only a partial picture of social realities.

Another likely medium- or long-term risk of an expanded role for the social partners is of their being left to their own devices in what is still an inherently unequal power relationship. To some extent, policymakers would walk away from their responsibility for social Europe by leaving it mainly if not solely to the social partners. The aftermath of the failure to reach agreement on national information and consultation rules revealed the reluctance of EU Council Presidencies to put on their agenda an issue on which the social partners cannot agree. As we saw earlier, the Commission put forward a proposal for a directive to the Council within a month of UNICE's refusal to negotiate. But more than a year on, the clear reluctance of some Member States to address the issue meant it had still not made its way onto the Council agenda.

The obvious objection here is that this is a purely "pre-Maastricht" scenario, where a stalemate created by some States can throw any hope of a compromise into question. But, to some extent, the situation may be more difficult still, now. If the social negotiators cannot agree, how much less likelihood than before is there of the political negotiators doing so? The question also arises whether the social partners have factored this into their bargaining strategies. UNICE seems resolved only to bargain under the threat of legislation, and only then where it is a credible threat (which seems not to be the case for the proposal on information and consultation).

As to the content of the agreements: their undeniable contribution to developing a "Community social acquis" must not overshadow the fact that the Social Dialogue has no purchase on fundamental macroeconomic issues. Put simply, matters of competition policy, monetary policy, fiscal decisions, and the social consequences of the broad economic policy guidelines are not on the social partners' negotiating table. But, these are all central to the blueprint for a social Europe. The Cologne European Council's decision to establish a "macroeconomic dialogue" involving the social partners and European institutions could be an important milestone along this road, but it is still too soon to tell.

Finally, it must be stressed that industrial relations do not cover all the wider social issues, but are focussed on employment. The scope for agreements between management and labour does not extend - or only indirectly - to poverty, housing, social exclusion, immigration, or disability, all of them new issues on the Community agenda. Is there a danger here of social Europe becoming a ring-fenced area for workers and businesses, with its own negotiating procedures, common standards and objectives, but no purchase on the "non-employment" aspects of social policy?